

1 RUSS, AUGUST & KABAT  
2 Marc A. Fenster, SBN 181067  
3 Email: mfenster@raklaw.com  
4 Reza Mirzaie (CA SBN 246953)  
5 Email: rmirzaie@raklaw.com  
6 Brian D. Ledahl (CA SBN 186579)  
7 Email: bledahl@raklaw.com  
8 Paul Kroeger (CA SBN 229074)  
9 Email: pkroeger@raklaw.com  
10 C. Jay Chung (CA SBN 252794)  
11 Email: jchung@raklaw.com  
12 Philip X. Wang (CA SBN 262239)  
13 Email: pwang@raklaw.com  
14 12424 Wilshire Boulevard, 12<sup>th</sup> Floor  
15 Los Angeles, California 90025  
16 Telephone: (310) 826-7474  
17 Facsimile: (310) 826-6991

18 *Attorneys for Plaintiff*  
19 *Data Scape Limited*

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**UNITED STATES DISTRICT COURT**  
**CENTRAL DISTRICT OF CALIFORNIA**  
**WESTERN DIVISION**

29 DATA SCAPE LIMITED,  
30 Plaintiff,  
31  
32 vs.  
33  
34 APPLE INC.,  
35 Defendant.

Case No. 2:18-cv-10659

**JURY TRIAL DEMANDED**

**COMPLAINT FOR PATENT INFRINGEMENT**

This is an action for patent infringement arising under the Patent Laws of the United States of America, 35 U.S.C. § 1 *et seq.* in which Plaintiff Data Scape Limited (“Plaintiff,” “Data Scape”) makes the following allegations against Defendant Apple Inc. (“Defendant” or “Apple”):

**PARTIES**

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2  
3 1. Data Scape is a company organized under the laws of Ireland with its office  
4 located at Office 115, 4-5 Burton Hall Road, Sandyford, Dublin 18, Ireland.

5 2. On information and belief, Apple is a California corporation with its  
6 principal place of business at One Apple Park Way, Cupertino, California 95014. Apple  
7 has regular and established places of business in this District, including, *e.g.*, at 8500  
8 Beverly Blvd., Los Angeles, CA 90048. Apple further has a relevant and existing  
9 presence in Hollywood, where it employs at least dozens of employees.  
10 <https://www.linkedin.com/in/dking061>, <https://www.linkedin.com/in/jingw>,  
11 <https://www.linkedin.com/in/tylergrisham/>, [https://www.linkedin.com/in/scott-](https://www.linkedin.com/in/scott-plagenhoef-a5785b54/)  
12 [plagenhoef-a5785b54/](https://www.linkedin.com/in/scott-plagenhoef-a5785b54/). Further, Data Scape is informed and believes that Apple is in  
13 the process of significantly expanding its operations in this District, including through  
14 a lease of 8777 Washington Blvd., in Culver City, California. *See*  
15 [https://www.latimes.com/business/hollywood/la-fi-ct-apple-culver-city-20180118-](https://www.latimes.com/business/hollywood/la-fi-ct-apple-culver-city-20180118-story.html)  
16 [story.html](https://www.latimes.com/business/hollywood/la-fi-ct-apple-culver-city-20180118-story.html). Apple can be served through its registered agent, CT Corporation System,  
17 818 W. Seventh Street, Suite 930, Los Angeles, California, 90017.

18 **JURISDICTION AND VENUE**

19 3. This action arises under the patent laws of the United States, Title 35 of  
20 the United States Code. This Court has original subject matter jurisdiction pursuant to  
21 28 U.S.C. §§ 1331 and 1338(a).

22 4. This Court has personal jurisdiction over Apple in this action because  
23 Apple has committed acts within the Central District of California giving rise to this  
24 action and has established minimum contacts with this forum such that the exercise of  
25 jurisdiction over Apple would not offend traditional notions of fair play and substantial  
26 justice. Apple, directly and through subsidiaries or intermediaries, has committed and  
27 continues to commit acts of infringement in this District by, among other things,  
28 offering to sell and selling products and/or services that infringe the asserted patents.

5. Venue is proper in this district under 28 U.S.C. § 1400(b). Apple is registered to business in California, and upon information and belief, Apple has transacted business in the Central District of California and has committed acts of direct and indirect infringement in the Central District of California. Apple has regular and established place(s) of business in the District, as set forth above.

## COUNT I

**INFRINGEMENT OF U.S. PATENT NO. 7,720,929**

6. Plaintiff realleges and incorporates by reference the foregoing paragraphs, as if fully set forth herein.

7. Data Scape is the owner by assignment of United States Patent No. 7,720,929 (“the ’929 Patent”) entitled “Communication System And Its Method and Communication Apparatus And Its Method.” The ’929 Patent was duly and legally issued by the United States Patent and Trademark Office on May 18, 2010. A true and correct copy of the ’929 Patent is included as Exhibit A.

8. On information and belief, Apple has offered for sale, sold and/or imported into the United States Apple products and services that infringe the '929 patent, and continues to do so. By way of illustrative example, these infringing products and services include, without limitation, Apple's products and services, *e.g.*, Apple iCloud, Apple iTunes and the Apple devices on which they operate (*e.g.* iPhone, MacBook, iPad), and all versions and variations thereof since the issuance of the '929 Patent ("Accused Instrumentalities").

9. On information and belief, Apple has directly infringed and continues to infringe the '929 Patent, for example, by making, selling, offering for sale, and/or importing the Accused Instrumentalities, and through its own use and testing of the Accused Instrumentalities, which constitute the communication system of Claim 1 of the '929 Patent comprising: a first apparatus having a first storage medium, and a second apparatus, said second apparatus comprising: a second storage medium configured to store management information of data to be transferred to said first

1 storage medium, a communicator configured to communicate data with said first  
2 apparatus, a detector configured to detect whether said first apparatus and said second  
3 apparatus are connected, an editor configured to select certain data to be transferred and  
4 to edit said management information based on said selection without regard to the  
5 connection of said first apparatus, and a controller configured to control transfer of the  
6 selected data stored in said second apparatus via said communicator based on said  
7 management information edited by said editor when said detector detects that said first  
8 apparatus and said second apparatus are connected, wherein said controller is  
9 configured to compare said management information edited by said editor with  
10 management information of data stored in said first storage medium and to transmit data  
11 in said second apparatus based on the results of the comparison. Upon information and  
12 belief, Apple uses the Accused Instrumentalities, which are infringing systems, for its  
13 own internal non-testing business purposes, while testing the Accused Instrumentalities,  
14 and while providing technical support and repair services for the Accused  
15 Instrumentalities to Apple's customers.

16 10. On information and belief, Apple has had knowledge of the '929 Patent  
17 since at least the filing of the original Complaint in this action, or shortly thereafter, and  
18 on information and belief, Apple knew of the '929 Patent and knew of its infringement,  
19 including by way of this lawsuit. By the time of trial, Apple will have known and  
20 intended (since receiving such notice) that its continued actions would actively induce  
21 and contribute to the infringement of the claims of the '929 Patent.

22 11. On information and belief, use of the Accused Instrumentalities in their  
23 ordinary and customary fashion results in infringement of the claims of the '929 Patent.

24 12. Apple's affirmative acts of making, using, selling, offering for sale, and/or  
25 importing the Accused Instrumentalities have induced and continue to induce users of  
26 the Accused Instrumentalities to use the Accused Instrumentalities in their normal and  
27 customary way to infringe Claim 1 of the '929 Patent, knowing that when the Accused  
28 Instrumentalities are used in their ordinary and customary manner such systems

constitute infringing communication systems comprising: a first apparatus having a first storage medium, and a second apparatus, said second apparatus comprising: a second storage medium configured to store management information of data to be transferred to said first storage medium, a communicator configured to communicate data with said first apparatus, a detector configured to detect whether said first apparatus and said second apparatus are connected, an editor configured to select certain data to be transferred and to edit said management information based on said selection without regard to the connection of said first apparatus, and a controller configured to control transfer of the selected data stored in said second apparatus via said communicator based on said management information edited by said editor when said detector detects that said first apparatus and said second apparatus are connected, wherein said controller is configured to compare said management information edited by said editor with management information of data stored in said first storage medium and to transmit data in said second apparatus based on the results of the comparison. For example, Apple explains to customers the benefits of using the Accused Instrumentalities, such as by touting their advantages communicating and sharing data among multiple devices:

## iCloud File Management

Use the iCloud Storage APIs to write user documents and data to a central location and access those items from all of a user's computers and iOS devices. Making a user's documents ubiquitous using iCloud means that a user can view or edit those documents from any device without having to sync or transfer files explicitly. Storing documents in a user's iCloud account also provides a layer of security for that user. Even if a user loses a device, the documents on that device are not lost if they are in iCloud storage.

**Important:** The iCloud APIs do not work with garbage collection in macOS. If your existing code uses garbage collection, update your code to use ARC instead.

[https://developer.apple.com/library/archive/documentation/FileManagement/Conceptual/FileSystemProgrammingGuide/iCloud/iCloud.html#//apple\\_ref/doc/uid/TP40010672-CH12-SW1](https://developer.apple.com/library/archive/documentation/FileManagement/Conceptual/FileSystemProgrammingGuide/iCloud/iCloud.html#//apple_ref/doc/uid/TP40010672-CH12-SW1). For similar reasons, Apple also induces its customers to use the Accused Instrumentalities to infringe other claims of the '929 Patent. Apple specifically intended

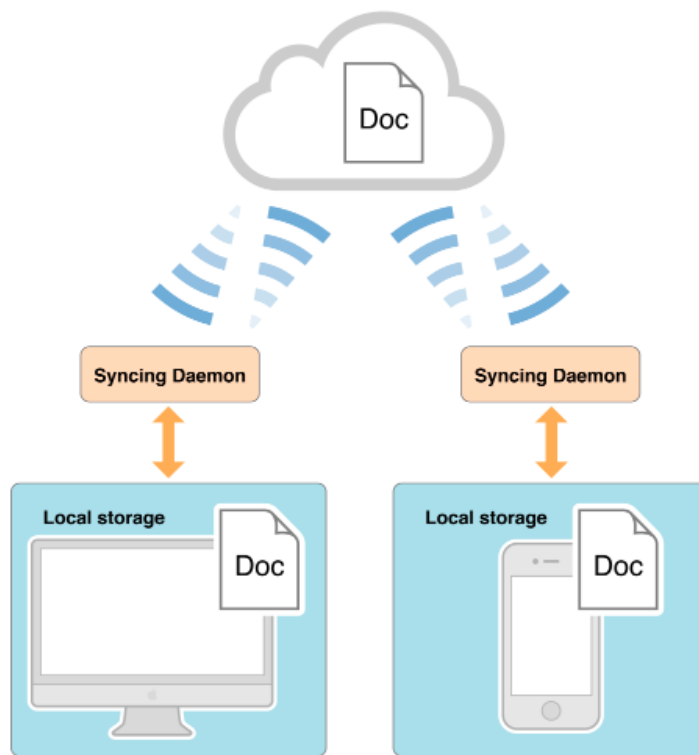
1 and was aware that the normal and customary use of the Accused Instrumentalities on  
2 compatible systems would infringe the '929 Patent. Apple performed the acts that  
3 constitute induced infringement, and would induce actual infringement, with the  
4 knowledge of the '929 Patent and with the knowledge, or willful blindness to the  
5 probability, that the induced acts would constitute infringement. On information and  
6 belief, Apple engaged in such inducement to promote the sales of the Accused  
7 Instrumentalities, *e.g.*, through Apple's user manuals, product support, marketing  
8 materials, demonstrations, installation support, and training materials to actively induce  
9 the users of the accused products to infringe the '929 Patent. Accordingly, Apple has  
10 induced and continues to induce end users of the accused products to use the accused  
11 products in their ordinary and customary way with compatible systems to make and/or  
12 use systems infringing the '929 Patent, knowing that such use of the Accused  
13 Instrumentalities with compatible systems will result in infringement of the '929 Patent.  
14 Accordingly, Apple has been (since at least as of filing of the original complaint), and  
15 currently is, inducing infringement of the '929 Patent, in violation of 35 U.S.C. §  
16 271(b).

17 13. Apple also indirectly infringes the '929 Patent by manufacturing, using,  
18 selling, offering for sale, and/or importing the accused products, with knowledge that  
19 the accused products were and are especially manufactured and/or especially adapted  
20 for use in infringing the '929 Patent and are not a staple article or commodity of  
21 commerce suitable for substantial non-infringing use. On information and belief, the  
22 Accused Instrumentality is designed to be used as an infringing communication systems  
23 comprising: a first apparatus having a first storage medium, and a second apparatus,  
24 said second apparatus comprising: a second storage medium configured to store  
25 management information of data to be transferred to said first storage medium, a  
26 communicator configured to communicate data with said first apparatus, a detector  
27 configured to detect whether said first apparatus and said second apparatus are  
28 connected, an editor configured to select certain data to be transferred and to edit said

1 management information based on said selection without regard to the connection of  
2 said first apparatus, and a controller configured to control transfer of the selected data  
3 stored in said second apparatus via said communicator based on said management  
4 information edited by said editor when said detector detects that said first apparatus and  
5 said second apparatus are connected, wherein said controller is configured to compare  
6 said management information edited by said editor with management information of  
7 data stored in said first storage medium and to transmit data in said second apparatus  
8 based on the results of the comparison. Because the Accused Instrumentality is designed  
9 to operate as the claimed system for communication, the Accused Instrumentality has  
10 no substantial non-infringing uses, and any other uses would be unusual, far-fetched,  
11 illusory, impractical, occasional, aberrant, or experimental. Apple's manufacture, use,  
12 sale, offering for sale, and/or importation of the Accused Instrumentality constitutes  
13 contributory infringement of the '929 Patent. Accordingly, Apple has been, and  
14 currently is, contributorily infringing the '929 patent, in violation of 35 U.S.C. § 271(c).

15 14. The Accused Instrumentalities include a system for communicating data.  
16 For example, the Accused Instrumentalities include "[a] communication system  
17 including a first apparatus having a first storage medium, and a second apparatus." For  
18 example, the Accused Instrumentalities communicate and transfer a document stored  
19 on one Apple device (e.g. a MacBook, iCloud Drive) to another Apple device (e.g. an  
20 iPhone):  
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Figure 4-1 Pushing document changes to iCloud



[https://developer.apple.com/library/archive/documentation/FileManagement/Conceptual/FileSystemProgrammingGuide/iCloud/iCloud.html#//apple\\_ref/doc/uid/TP40010672-CH12-SW1](https://developer.apple.com/library/archive/documentation/FileManagement/Conceptual/FileSystemProgrammingGuide/iCloud/iCloud.html#//apple_ref/doc/uid/TP40010672-CH12-SW1).



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# iCloud File Management

Use the iCloud Storage APIs to write user documents and data to a central location and access those items from all of a user's computers and iOS devices. Making a user's documents ubiquitous using iCloud means that a user can view or edit those documents from any device without having to sync or transfer files explicitly. Storing documents in a user's iCloud account also provides a layer of security for that user. Even if a user loses a device, the documents on that device are not lost if they are in iCloud storage.

**Important:** The iCloud APIs do not work with garbage collection in macOS. If your existing code uses garbage collection, update your code to use ARC instead.

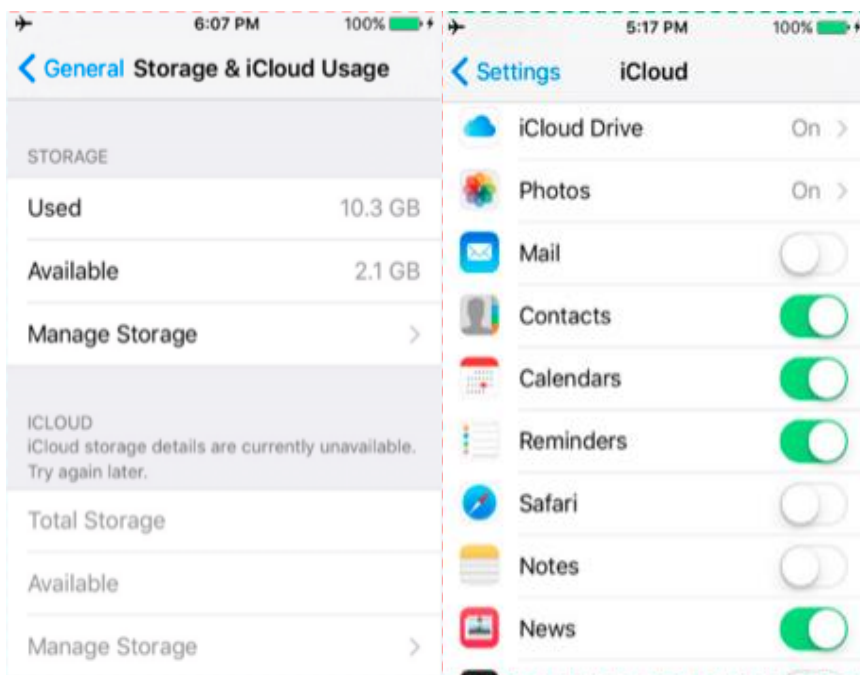
## Storing and Using Documents in iCloud

Documents in iCloud provide the central location from which updates can be delivered to a user's computers and iOS devices. All documents must be created on a local disk initially and moved to a user's iCloud account later. A document targeted for iCloud storage is not moved to iCloud immediately, though. First, it is moved from its current location in the file system to a local system-managed directory where it can be monitored by the iCloud service. After that transfer, the file is transferred to iCloud and to the user's other devices as soon as possible.

While in iCloud storage, changes made on one device are stored locally and then pushed to iCloud using a local daemon, as shown in Figure 4–1. To prevent large numbers of conflicting changes from occurring at the same time, apps are expected to use file coordinator objects to perform all changes. File coordinators mediate changes between your app and the daemon that facilitates the transfer of the document to and from iCloud. In this way, the file coordinator acts like a locking mechanism for the document, preventing your app and the daemon from modifying the document simultaneously.

[https://developer.apple.com/library/archive/documentation/FileManagement/Conceptual/FileSystemProgrammingGuide/iCloud/iCloud.html#//apple\\_ref/doc/uid/TP40010672-CH12-SW1](https://developer.apple.com/library/archive/documentation/FileManagement/Conceptual/FileSystemProgrammingGuide/iCloud/iCloud.html#//apple_ref/doc/uid/TP40010672-CH12-SW1).

15. The Accused Instrumentalities include “said second apparatus comprising: a second storage medium configured to store management information of data to be transferred to said first storage medium.” As shown from the below screen captures from an iPhone (an example of the second apparatus), the iPhone includes gigabytes of storage, and can manage the transfer of data from itself to the iCloud Drive and then to another Apple Device (*e.g.* MacBook). Both the iCloud Drive and the MacBook include storage and are an examples of a first storage medium.



12         16. The Accused Instrumentalities further include a second apparatus  
13 comprising “a communicator configured to communicate with said first apparatus.” For  
14 example, the iPhone is designed to communicate with the iCloud drive over cellular  
15 and/or WiFi networks:  
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# iCloud File Management

Use the iCloud Storage APIs to write user documents and data to a central location and access those items from all of a user's computers and iOS devices. Making a user's documents ubiquitous using iCloud means that a user can view or edit those documents from any device without having to sync or transfer files explicitly. Storing documents in a user's iCloud account also provides a layer of security for that user. Even if a user loses a device, the documents on that device are not lost if they are in iCloud storage.

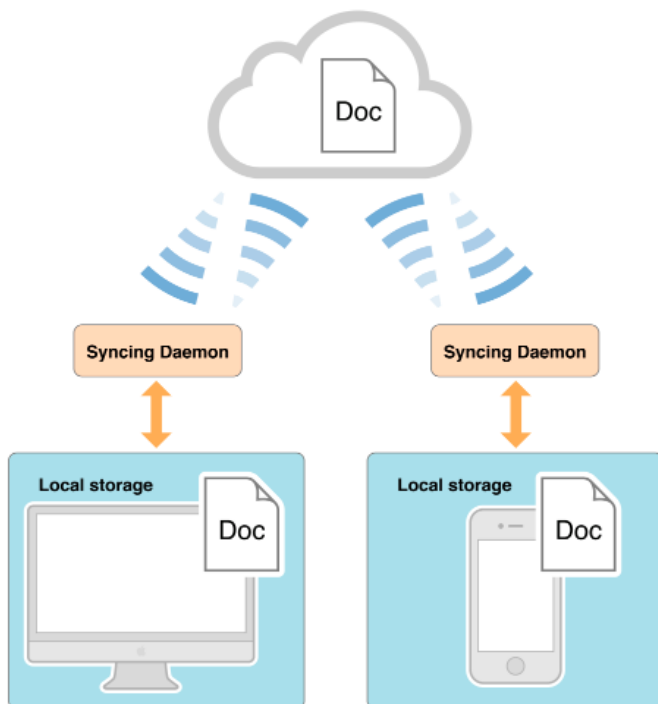
**Important:** The iCloud APIs do not work with garbage collection in macOS. If your existing code uses garbage collection, update your code to use ARC instead.

## Storing and Using Documents in iCloud

Documents in iCloud provide the central location from which updates can be delivered to a user's computers and iOS devices. All documents must be created on a local disk initially and moved to a user's iCloud account later. A document targeted for iCloud storage is not moved to iCloud immediately, though. First, it is moved from its current location in the file system to a local system-managed directory where it can be monitored by the iCloud service. After that transfer, the file is transferred to iCloud and to the user's other devices as soon as possible.

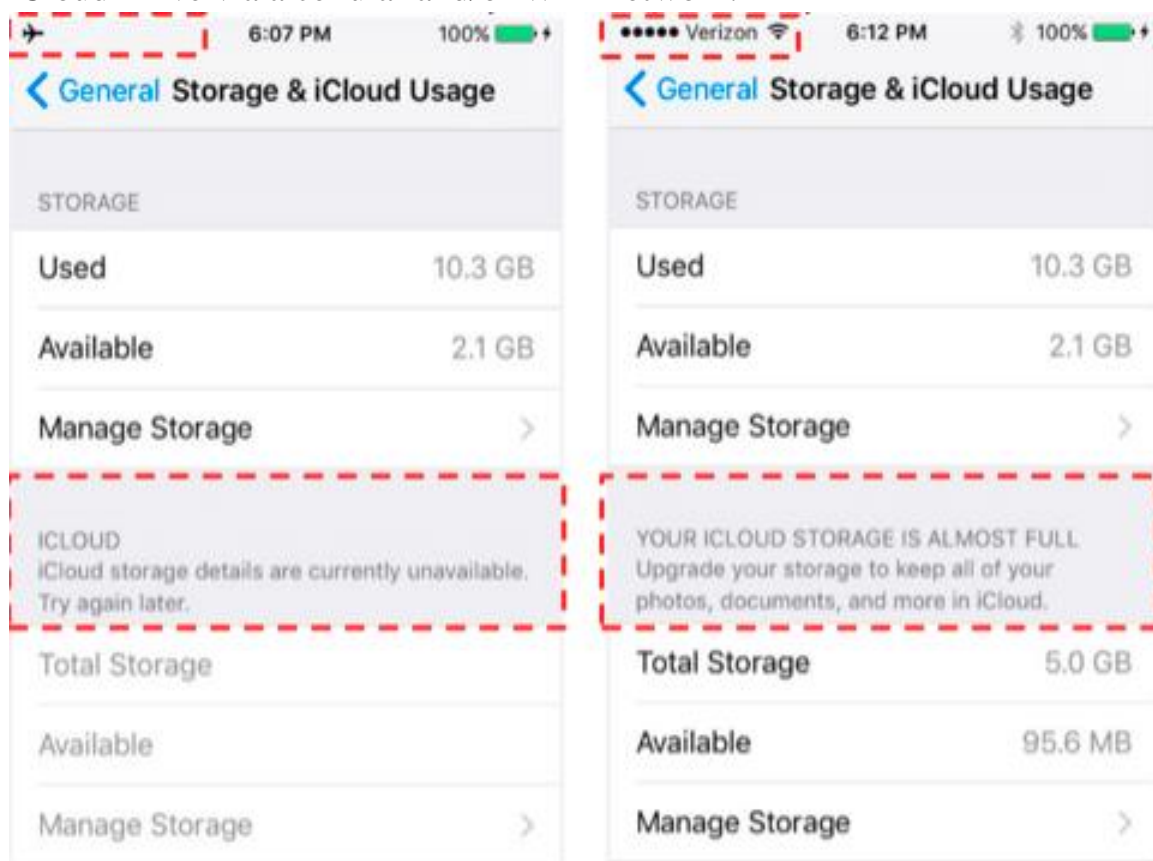
While in iCloud storage, changes made on one device are stored locally and then pushed to iCloud using a local daemon, as shown in Figure 4-1. To prevent large numbers of conflicting changes from occurring at the same time, apps are expected to use file coordinator objects to perform all changes. File coordinators mediate changes between your app and the daemon that facilitates the transfer of the document to and from iCloud. In this way, the file coordinator acts like a locking mechanism for the document, preventing your app and the daemon from modifying the document simultaneously.

**Figure 4-1** Pushing document changes to iCloud

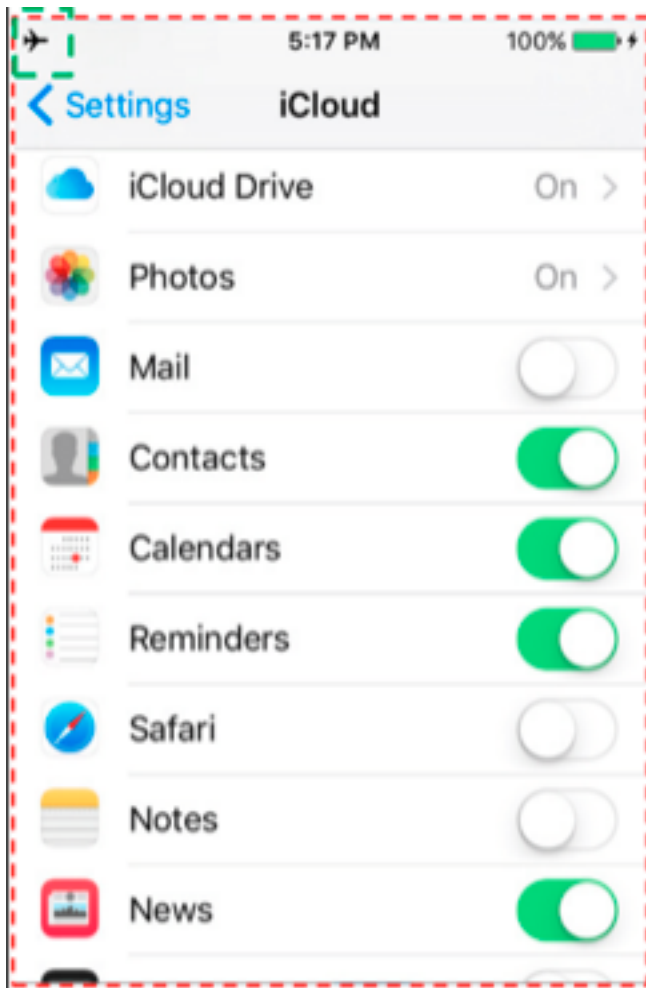


[https://developer.apple.com/library/archive/documentation/FileManagement/Conceptual/FileSystemProgrammingGuide/iCloud/iCloud.html#//apple\\_ref/doc/uid/TP40010672-CH12-SW1](https://developer.apple.com/library/archive/documentation/FileManagement/Conceptual/FileSystemProgrammingGuide/iCloud/iCloud.html#//apple_ref/doc/uid/TP40010672-CH12-SW1).

17. The Accused Instrumentalities further include a second apparatus comprising “a detector configured to detect whether said first apparatus and a second apparatus are connected.” For example, an iPhone can detect whether or not it is detected to a connected to the iCloud Drive via a cellular and/or WiFi network:



18. The Accused Instrumentalities further include a second apparatus comprising “an editor configured to select certain data to be transferred and to edit said management information based on said selection without regard to the connection of said first apparatus.” For example, the iPhone is configured to allow a user to select the applications that share data with the iCloud Drive even when the user is not connected to a cellular or WiFi network or the iCloud Drive (*e.g.* in Airplane Mode):



19. The Accused Instrumentalities further include a second apparatus comprising “a controller configured to control transfer of the selected data stored in said second apparatus to said first apparatus via said communicator based on said management information edited by said editor when said detector detects that said first apparatus and said second apparatus.” For example, when the iPhone is connected to the iCloud drive over a cellular and/or WiFi network, it will transfer the data stored in the applications selected by the user to the iCloud Drive:

iCloud will:

- Sync Calendars
- SyncSafari Bookmarks (though not display them on the iCloud website)
- Sync Contacts
- Sync photos added to or taken on one device onto other devices
- Access @me.com email
- Sync iWork documents only between your Mac and iOS devices - automatically from iOS devices by dragging individual documents from a Mac to the iCloud website (and the cannot be re-downloaded until they have been edited on an iOS device)

Each of these can be turned on or off on each device; you cannot selectively sync within one data type - i.e. it's all or no Contacts, not a selection, and so on.

<https://discussions.apple.com/thread/3743670?tstart=0>

### Here's how it works

iCloud Photos automatically keeps every photo and video you take in iCloud, so you can access your library from any device, anytime you want. Any changes you make to your collection on one device, change on your other devices too. Your photos and videos stay organized into Moments, Collections, and Years. And all of your Memories and People are updated everywhere. That way you can quickly find the moment, family member, or friend you're looking for.

Your collection uploads to iCloud each time your device connects to Wi-Fi and your battery is charged. When you have iOS 11 or later, your library updates over cellular too. Depending on your Internet speed, the time it takes for you to see your photos and videos on all of your devices and iCloud.com might vary.

<https://support.apple.com/en-sg/HT204264>

20. The Accused Instrumentalities further include a second apparatus wherein said controller “is configured to compare said management information edited by said editor with management information of data stored in said first storage medium and to transmit data in said second apparatus based on result of the comparison.” For example, the iPhone is configured to compare the data already transmitted to the iCloud Drive with the data present in the iPhone Applications that have been selected and transmit new or changed data for in the iPhone Applications (*e.g.* a new photo that was not previously saved on the iCloud Drive):



iCloud will:

- Sync Calendars
- SyncSafari Bookmarks (though not display them on the iCloud website)
- Sync Contacts
- Sync photos added to or taken on one device onto other devices
- Access @me.com email
- Sync iWork documents only between your Mac and iOS devices - automatically from iOS devices by dragging individual documents from a Mac to the iCloud website (and the cannot be re-downloaded until they have been edited on an iOS device)

Each of these can be turned on or off on each device; you cannot selectively sync within one data type - i.e. it's all or no Contacts, not a selection, and so on.

<https://discussions.apple.com/thread/3743670?tstart=0>

### Here's how it works

iCloud Photos automatically keeps every photo and video you take in iCloud, so you can access your library from any device, anytime you want. Any changes you make to your collection on one device, change on your other devices too. Your photos and videos stay organized into Moments, Collections, and Years. And all of your Memories and People are updated everywhere. That way you can quickly find the moment, family member, or friend you're looking for.

Your collection uploads to iCloud each time your device connects to Wi-Fi and your battery is charged. When you have iOS 11 or later, your library updates over cellular too. Depending on your Internet speed, the time it takes for you to see your photos and videos on all of your devices and iCloud.com might vary.

<https://support.apple.com/en-sg/HT204264>

21. Apple also infringes other claims of the '929 Patent, directly and through inducing infringement and contributory infringement.

22. On information and belief, use of the Accused Instrumentalities in their ordinary and customary fashion results in infringement of the methods claimed by the '929 Patent.

23. By making, using, offering for sale, selling and/or importing into the United States the Accused Instrumentalities, and touting the benefits of using the Accused Instrumentalities' data communication features, Apple has injured Data Scape and is liable to Data Scape for infringement of the '929 Patent pursuant to 35 U.S.C. § 271.





1 at the apparatus, whether the apparatus and the external apparatus are connected;  
2 comparing, by a controller at the apparatus, the edited management information with  
3 management information of data stored in the external apparatus; determining, by the  
4 controller, a size of the selected data in the communication apparatus; and transmitting,  
5 by the controller, the selected data from the apparatus to the external apparatus based  
6 on the management information, a result of the comparison, and a result of the  
7 determination when the detection indicates that the apparatus and the external apparatus  
8 are connected. Upon information and belief, Apple uses the Accused Instrumentalities,  
9 which perform the infringing method, for its own internal non-testing business  
10 purposes, while testing the Accused Instrumentalities, and while providing technical  
11 support and repair services for the Accused Instrumentalities to Apple's customers.

12 29. On information and belief, Apple has had knowledge of the '751 Patent  
13 since at least the filing of the original Complaint in this action, or shortly thereafter, and  
14 on information and belief, Apple knew of the '751 Patent and knew of its infringement,  
15 including by way of this lawsuit. By the time of trial, Apple will have known and  
16 intended (since receiving such notice) that their continued actions would actively induce  
17 and contribute to the infringement of the claims of the '751 Patent

18 30. On information and belief, use of the Accused Instrumentalities in their  
19 ordinary and customary fashion results in infringement of the claims of the '751 Patent.

20 31. Apple's affirmative acts of making, using, selling, offering for sale, and/or  
21 importing the Accused Instrumentalities have induced and continue to induce users of  
22 the Accused Instrumentalities to use the Accused Instrumentalities in their normal and  
23 customary way to infringe Claim 10 of the '751 Patent, knowing that when the Accused  
24 Instrumentalities are used in their ordinary and customary manner they perform the  
25 method of communicating comprising: editing management information of data to be  
26 transferred from an apparatus to an external apparatus by selecting certain data to be  
27 transferred, the management information stored in a storage medium of the apparatus,  
28 without regard to the connection of the apparatus and the external apparatus; detecting,

at the apparatus, whether the apparatus and the external apparatus are connected; comparing, by a controller at the apparatus, the edited management information with management information of data stored in the external apparatus; determining, by the controller, a size of the selected data in the communication apparatus; and transmitting, by the controller, the selected data from the apparatus to the external apparatus based on the management information, a result of the comparison, and a result of the determination when the detection indicates that the apparatus and the external apparatus are connected. For example, Apple explains to customers the benefits of using the Accused Instrumentalities, such as by touting their advantages communicating and sharing data among multiple devices:

## iCloud File Management

Use the iCloud Storage APIs to write user documents and data to a central location and access those items from all of a user's computers and iOS devices. Making a user's documents ubiquitous using iCloud means that a user can view or edit those documents from any device without having to sync or transfer files explicitly. Storing documents in a user's iCloud account also provides a layer of security for that user. Even if a user loses a device, the documents on that device are not lost if they are in iCloud storage.

**Important:** The iCloud APIs do not work with garbage collection in macOS. If your existing code uses garbage collection, update your code to use ARC instead.

[https://developer.apple.com/library/archive/documentation/FileManagement/Conceptual/FileSystemProgrammingGuide/iCloud/iCloud.html#//apple\\_ref/doc/uid/TP40010672-CH12-SW1](https://developer.apple.com/library/archive/documentation/FileManagement/Conceptual/FileSystemProgrammingGuide/iCloud/iCloud.html#//apple_ref/doc/uid/TP40010672-CH12-SW1). For similar reasons, Apple also induces its customers to use the Accused Instrumentalities to infringe other claims of the '751 Patent. Apple specifically intended and was aware that the normal and customary use of the Accused Instrumentalities would infringe the '751 Patent. Apple performed the acts that constitute induced infringement, and would induce actual infringement, with the knowledge of the '751 Patent and with the knowledge, or willful blindness to the probability, that the induced acts would constitute infringement. On information and belief, Apple engaged in such inducement to promote the sales of the Accused Instrumentalities, *e.g.*, through Apple's

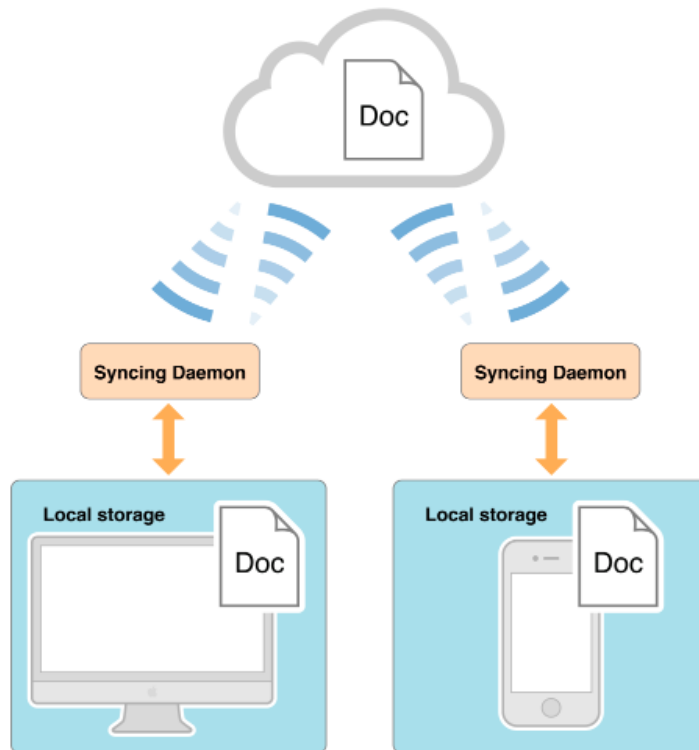
1 user manuals, product support, marketing materials, demonstrations, installation  
2 support, and training materials to actively induce the users of the accused products to  
3 infringe the '751 Patent. Accordingly, Apple as induced and continues to induce end  
4 users of the accused products to use the accused products in their ordinary and  
5 customary way with compatible systems to make and/or use systems infringing the '751  
6 Patent, knowing that such use of the Accused Instrumentalities with compatible systems  
7 will result in infringement of the '751 Patent. Accordingly, Apple has been (since at  
8 least as of filing of the original complaint), and currently is, inducing infringement of  
9 the '751 Patent, in violation of 35 U.S.C. § 271(b).

10       32. Apple also indirectly infringes the '751 Patent by manufacturing, using,  
11 selling, offering for sale, and/or importing the accused products, with knowledge that  
12 the accused products were and are especially manufactured and/or especially adapted  
13 for use in infringing the '751 Patent and are not a staple article or commodity of  
14 commerce suitable for substantial non-infringing use. On information and belief, the  
15 Accused Instrumentality is designed to be used to perform the method of  
16 communicating comprising: editing management information of data to be transferred  
17 from an apparatus to an external apparatus by selecting certain data to be transferred,  
18 the management information stored in a storage medium of the apparatus, without  
19 regard to the connection of the apparatus and the external apparatus; detecting, at the  
20 apparatus, whether the apparatus and the external apparatus are connected; comparing,  
21 by a controller at the apparatus, the edited management information with management  
22 information of data stored in the external apparatus; determining, by the controller, a  
23 size of the selected data in the communication apparatus; and transmitting, by the  
24 controller, the selected data from the apparatus to the external apparatus based on the  
25 management information, a result of the comparison, and a result of the determination  
26 when the detection indicates that the apparatus and the external apparatus are connected.  
27 Because the Accused Instrumentality is designed to claimed method for  
28 communication, the Accused Instrumentality has no substantial non-infringing uses,

1 and any other uses would be unusual, far-fetched, illusory, impractical, occasional,  
 2 aberrant, or experimental. Apple's manufacture, use, sale, offering for sale, and/or  
 3 importation of the Accused Instrumentality constitutes contributory infringement of the  
 4 '751 Patent. Accordingly, Apple has been, and currently is, contributorily infringing the  
 5 '751 patent, in violation of 35 U.S.C. § 271(c).

6 33. The Accused Instrumentalities perform a method of communicating data.  
 7 For example, the Accused Instrumentalities perform a method comprising "editing  
 8 management information of data to be transferred from an apparatus to an external  
 9 apparatus by selecting certain data to be transferred, the management information stored  
 10 within a storage medium of the apparatus without regard to the connection of the  
 11 apparatus and the external apparatus." For example, the Accused Instrumentalities  
 12 transfer data from an iOS device (e.g. a MacBook, iPad, iPhone), an example of the  
 13 claimed apparatus to the iCloud Drive, an example of the external apparatus:

14 **Figure 4-1 Pushing document changes to iCloud**



1 [https://developer.apple.com/library/archive/documentation/FileManagement/Conceptu](https://developer.apple.com/library/archive/documentation/FileManagement/Conceptual/FileSystemProgrammingGuide/iCloud/iCloud.html#//apple_ref/doc/uid/TP40010672-CH12-SW1)  
2 [al/FileSystemProgrammingGuide/iCloud/iCloud.html#//apple\\_ref/doc/uid/TP4001067](https://developer.apple.com/library/archive/documentation/FileManagement/Conceptual/FileSystemProgrammingGuide/iCloud/iCloud.html#//apple_ref/doc/uid/TP40010672-CH12-SW1)  
3 [2-CH12-SW1](https://developer.apple.com/library/archive/documentation/FileManagement/Conceptual/FileSystemProgrammingGuide/iCloud/iCloud.html#//apple_ref/doc/uid/TP40010672-CH12-SW1).

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## 4 iCloud File Management

5  
6 Use the iCloud Storage APIs to write user documents and data to a central location and access  
7 those items from all of a user's computers and iOS devices. Making a user's documents  
8 ubiquitous using iCloud means that a user can view or edit those documents from any device  
9 without having to sync or transfer files explicitly. Storing documents in a user's iCloud  
10 account also provides a layer of security for that user. Even if a user loses a device, the  
11 documents on that device are not lost if they are in iCloud storage.

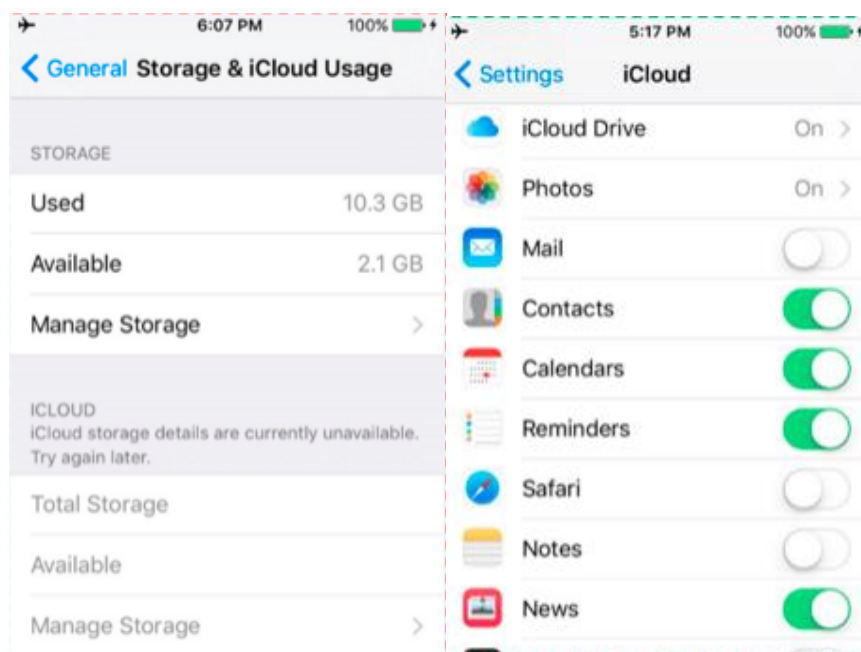
12  
13 **Important:** The iCloud APIs do not work with garbage collection in macOS. If your existing  
14 code uses garbage collection, update your code to use ARC instead.

## 15 Storing and Using Documents in iCloud

16 Documents in iCloud provide the central location from which updates can be delivered to a  
17 user's computers and iOS devices. All documents must be created on a local disk initially and  
18 moved to a user's iCloud account later. A document targeted for iCloud storage is not moved  
19 to iCloud immediately, though. First, it is moved from its current location in the file system to  
20 a local system-managed directory where it can be monitored by the iCloud service. After that  
21 transfer, the file is transferred to iCloud and to the user's other devices as soon as possible.

22 While in iCloud storage, changes made on one device are stored locally and then pushed to  
23 iCloud using a local daemon, as shown in Figure 4–1. To prevent large numbers of conflicting  
24 changes from occurring at the same time, apps are expected to use file coordinator objects  
25 to perform all changes. File coordinators mediate changes between your app and the daemon  
26 that facilitates the transfer of the document to and from iCloud. In this way, the file  
27 coordinator acts like a locking mechanism for the document, preventing your app and the  
28 daemon from modifying the document simultaneously.

29 [https://developer.apple.com/library/archive/documentation/FileManagement/Conceptu](https://developer.apple.com/library/archive/documentation/FileManagement/Conceptual/FileSystemProgrammingGuide/iCloud/iCloud.html#//apple_ref/doc/uid/TP40010672-CH12-SW1)  
30 [al/FileSystemProgrammingGuide/iCloud/iCloud.html#//apple\\_ref/doc/uid/TP4001067](https://developer.apple.com/library/archive/documentation/FileManagement/Conceptual/FileSystemProgrammingGuide/iCloud/iCloud.html#//apple_ref/doc/uid/TP40010672-CH12-SW1)  
31 [2-CH12-SW1](https://developer.apple.com/library/archive/documentation/FileManagement/Conceptual/FileSystemProgrammingGuide/iCloud/iCloud.html#//apple_ref/doc/uid/TP40010672-CH12-SW1). The iOS devices include code, an example of management information,  
32 stored within memory on the device that allows a user to select data to be transferred:



iCloud will:

- Sync Calendars
- Sync Safari Bookmarks (though not display them on the iCloud website)
- Sync Contacts
- Sync photos added to or taken on one device onto other devices
- Access @me.com email
- Sync iWork documents only between your Mac and iOS devices - automatically from iOS devices by dragging individual documents from a Mac to the iCloud website (and the cannot be re-downloaded until they have been edited on an iOS device)

Each of these can be turned on or off on each device; you cannot selectively sync within one data type - i.e. it's all or no Contacts, not a selection, and so on.

<https://discussions.apple.com/thread/3743670?tstart=0>

## Here's how it works

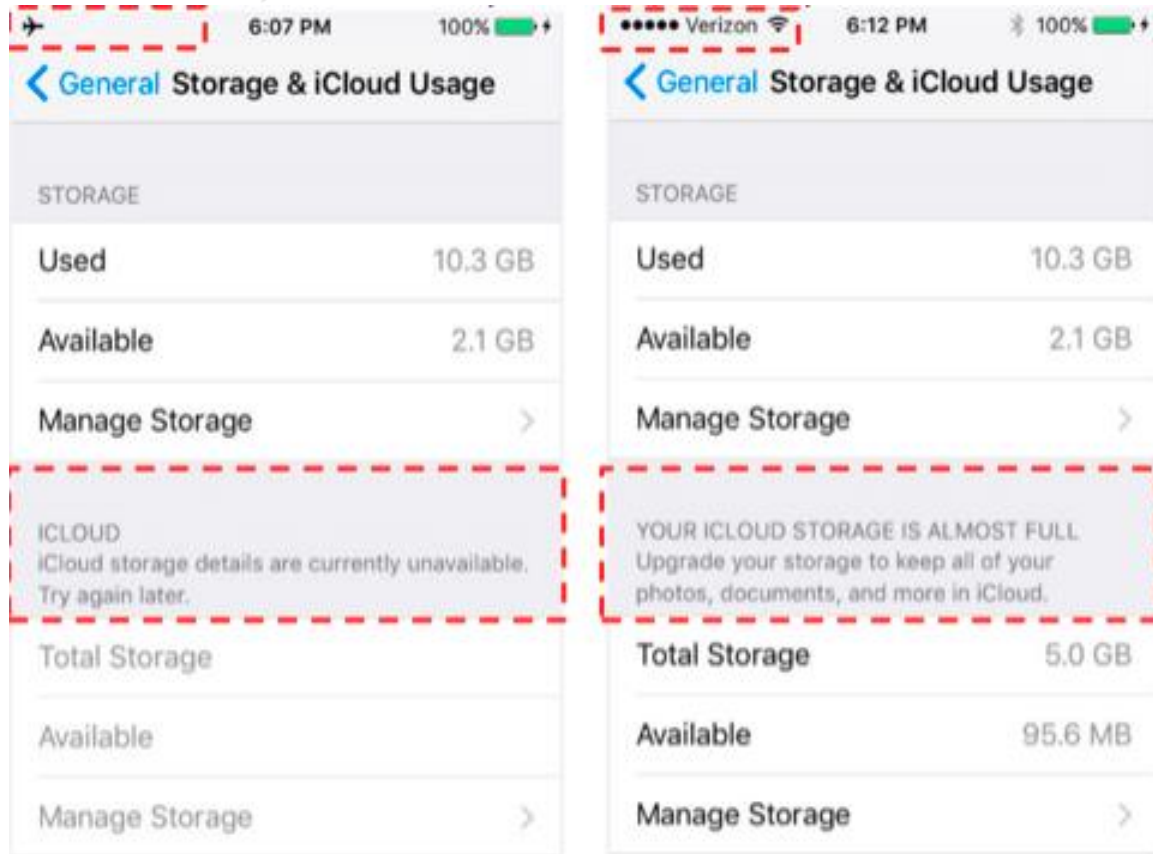
iCloud Photos automatically keeps every photo and video you take in iCloud, so you can access your library from any device, anytime you want. Any changes you make to your collection on one device, change on your other devices too. Your photos and videos stay organized into Moments, Collections, and Years. And all of your Memories and People are updated everywhere. That way you can quickly find the moment, family member, or friend you're looking for.

Your collection uploads to iCloud each time your device connects to Wi-Fi and your battery is charged. When you have iOS 11 or later, your library updates over cellular too. Depending on your Internet speed, the time it takes for you to see your photos and videos on all of your devices and iCloud.com might vary.

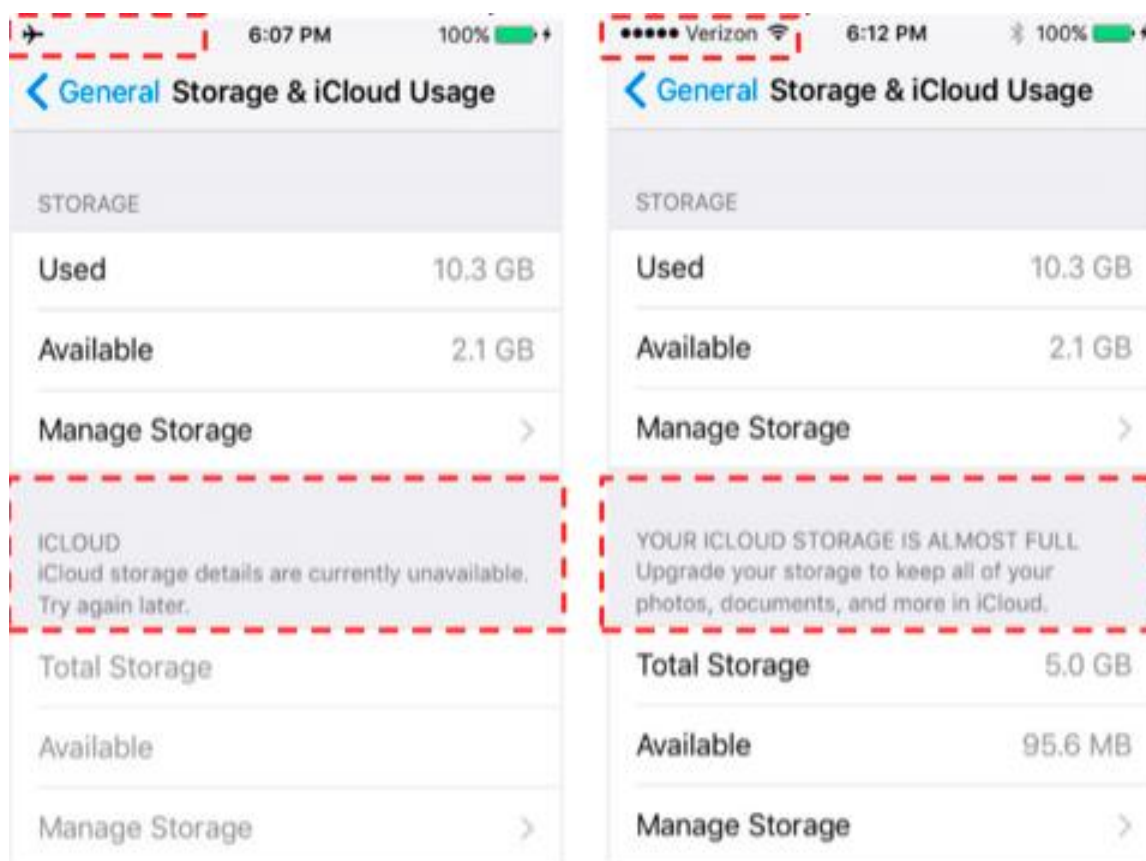
<https://support.apple.com/en-sg/HT204264>. For example, the user's ability to select the applications that will transfer data from the iOS device to the iCloud drive is not



1 dependent the apparatus (*e.g.* iOS device) being connected to the external device (*e.g.*  
 2 the iCloud Drive):



17 34. The Accused Instrumentalities further perform a method of  
 18 communicating comprising “detecting, at the apparatus, whether the apparatus and the  
 19 external apparatus are connected.” For example, the iOS device can determine whether  
 20 or not it is connected to the iCloud Drive:



35. The Accused Instrumentalities further perform a method of communicating data comprising “comparing, by a controller at the apparatus, the edited management information with management information of data stored in the external apparatus.” For example, the iOS device (*e.g.* iPhone) is configured to compare the data already transmitted to the iCloud Drive with the data present in the iPhone Applications that have been selected and transmit new or changed data for in the iPhone Applications (*e.g.* a new photo that was not previously saved on the iCloud Drive:

iCloud will:

- Sync Calendars
- SyncSafari Bookmarks (though not display them on the iCloud website)
- Sync Contacts
- Sync photos added to or taken on one device onto other devices
- Access @me.com email
- Sync iWork documents only between your Mac and iOS5 devices - automatically from iOS devices by dragging individual documents from a Mac to the iCloud website (and the cannot be re-downloaded until they have been edited on an iOS device)

Each of these can be turned on or off on each device; you cannot selectively sync within one data type - i.e. it's all or no Contacts, not a selection, and so on.



<https://discussions.apple.com/thread/3743670?tstart=0>

## Here's how it works

iCloud Photos automatically keeps every photo and video you take in iCloud, so you can access your library from any device, anytime you want. Any changes you make to your collection on one device, change on your other devices too. Your photos and videos stay organized into Moments, Collections, and Years. And all of your Memories and People are updated everywhere. That way you can quickly find the moment, family member, or friend you're looking for.

Your collection uploads to iCloud each time your device connects to Wi-Fi and your battery is charged. When you have iOS 11 or later, your library updates over cellular too. Depending on your Internet speed, the time it takes for you to see your photos and videos on all of your devices and iCloud.com might vary.

<https://support.apple.com/en-sg/HT204264>

36. The Accused Instrumentalities further perform a method of communicating data comprising “determining, by the controller, a size of the selected data in the communication apparatus.” For example, the iOS device (*e.g.* iPhone) determines the size the data in the applications selected to be transferred to the iCloud:



1           37. The Accused Instrumentalities further perform a method of  
 2 communicating data comprising “transmitting, by the controller, the selected data from  
 3 the apparatus to the external apparatus based on the management information, a result  
 4 of the comparison, and a result of the determination when the detection indicates that  
 5 the apparatus and the external apparatus are connected. For example, when the iPhone  
 6 is connected to the iCloud drive over a cellular and/or WiFi network, it will transfer the  
 7 data stored in the applications selected by the user to the iCloud Drive, to the extent the  
 8 data has not been transferred and if there is storage available for the data in the iCloud  
 9 Drive:

iCloud will:

- Sync Calendars
- SyncSafari Bookmarks (though not display them on the iCloud website)
- Sync Contacts
- Sync photos added to or taken on one device onto other devices
- Access @me.com email
- Sync iWork documents only between your Mac and iOS devices - automatically from iOS devices by dragging individual documents from a Mac to the iCloud website (and the cannot be re-downloaded until they have been edited on an iOS device)

Each of these can be turned on or off on each device; you cannot selectively sync within one data type - i.e. it's all or no Contacts, not a selection, and so on.

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### Here's how it works

iCloud Photos automatically keeps every photo and video you take in iCloud, so you can access your library from any device, anytime you want. Any changes you make to your collection on one device, change on your other devices too. Your photos and videos stay organized into Moments, Collections, and Years. And all of your Memories and People are updated everywhere. That way you can quickly find the moment, family member, or friend you're looking for.

Your collection uploads to iCloud each time your device connects to Wi-Fi and your battery is charged. When you have iOS 11 or later, your library updates over cellular too. Depending on your Internet speed, the time it takes for you to see your photos and videos on all of your devices and iCloud.com might vary.

<https://support.apple.com/en-sg/HT204264>

38. Apple also infringes other claims of the '751 Patent, directly and through inducing infringement and contributory infringement.

1           39. On information and belief, use of the Accused Instrumentalities in their  
2 ordinary and customary fashion results in infringement of the methods claimed by  
3 the '751 Patent.

4           40. By making, using, offering for sale, selling and/or importing into the  
5 United States the Accused Instrumentalities, and touting the benefits of using the  
6 Accused Instrumentalities' data communication features, Apple has injured Data Scape  
7 and is liable to Data Scape for infringement of the '751 Patent pursuant to 35 U.S.C. §  
8 271.

9           41. As a result of Apple's infringement of the '751 Patent, Plaintiff Data  
10 Scape is entitled to monetary damages in an amount adequate to compensate for Apple's  
11 infringement, but in no event less than a reasonable royalty for the use made of the  
12 invention by Apple, together with interest and costs as fixed by the Court.

13                                   **COUNT III**

14                           **INFRINGEMENT OF U.S. PATENT NO. 7,239,469**

15           42. Plaintiff realleges and incorporates by reference the foregoing paragraphs,  
16 as if fully set forth herein.

17           43. Data Scape is the owner by assignment of United States Patent No.  
18 7,239,469 ("the '469 Patent") entitled "Recording Apparatus, Server Apparatus,  
19 Recording Method Program, and Storage Medium." The '469 Patent was duly and  
20 legally issued by the United States Patent and Trademark Office on July 3, 2007. A  
21 true and correct copy of the '469 Patent is included as Exhibit C.

22           44. On information and belief, Apple has offered for sale, sold and/or imported  
23 into the United States Apple products and services that infringe the '469 patent, and  
24 continues to do so. By way of illustrative example, these infringing products and  
25 services include, without limitation, Apple's products and services, *e.g.*, Apple iCloud,  
26 and the Apple devices on which they operate (*e.g.* iPhone, MacBook, iPad), and all  
27 versions and variations thereof since the issuance of the '469 Patent ("Accused  
28 Instrumentalities").

1           45. On information and belief, Apple has directly infringed and continues to  
2 infringe the '469 Patent, for example, by making, selling, offering for sale, and/or  
3 importing the Accused Instrumentalities, and through its own use and testing of the  
4 Accused Instrumentalities, which constitute the data recording apparatus claimed by  
5 Claim 1 of the '929 Patent comprising: receiver configured to receive data from an  
6 external server having a first recording medium that stores data and having first  
7 management data for managing the data, data recorder configured to record the data  
8 received by the receiver on a second recording medium, management data producer  
9 configured to produce second management data for managing data recorded on the  
10 second recording medium based on the first management data, data reader configured  
11 to read data from a third recording medium that stores data and third management data  
12 for managing the data, and controller configured to control the data recorder to record  
13 data read from the third recording medium when the third management data is not  
14 found within the second management data recorded on the second recording medium.  
15 Upon information and belief, Apple uses the Accused Instrumentalities, which are  
16 infringing systems, for its own internal non-testing business purposes, while testing the  
17 Accused Instrumentalities, and while providing technical support and repair services  
18 for the Accused Instrumentalities to Apple's customers.

19           46. On information and belief, Apple has had knowledge of the '469 Patent  
20 since at least the filing of the original Complaint in this action, or shortly thereafter,  
21 and on information and belief, Apple knew of the '469 Patent and knew of its  
22 infringement, including by way of this lawsuit. By the time of trial, Apple will have  
23 known and intended (since receiving such notice) that their continued actions would  
24 actively induce and contribute to the infringement of the claims of the '469 Patent.

25           47. On information and belief, use of the Accused Instrumentalities in their  
26 ordinary and customary fashion results in infringement of the claims of the '469 Patent.

27           48. Apple's affirmative acts of making, using, selling, offering for sale, and/or  
28 importing the Accused Instrumentalities have induced and continue to induce users of

the Accused Instrumentalities to use the Accused Instrumentalities in their normal and customary way to infringe Claim 1 of the '469 Patent, knowing that when the Accused Instrumentalities are used in their ordinary and customary manner such systems constitute an infringing data recording apparatus claimed by Claim 1 of the '469 Patent comprising each of the following: receiver configured to receive data from an external server having a first recording medium that stores data and having first management data for managing the data, data recorder configured to record the data received by the receiver on a second recording medium, management data producer configured to produce second management data for managing data recorded on the second recording medium based on the first management data, data reader configured to read data from a third recording medium that stores data and third management data for managing the data, and controller configured to control the data recorder to record data read from the third recording medium when the third management data is not found within the second management data recorded on the second recording medium. For example, Apple explains to customers the benefits of using the Accused Instrumentalities, such as by touting their advantages communicating and sharing data among multiple devices:

## iCloud File Management

Use the iCloud Storage APIs to write user documents and data to a central location and access those items from all of a user's computers and iOS devices. Making a user's documents ubiquitous using iCloud means that a user can view or edit those documents from any device without having to sync or transfer files explicitly. Storing documents in a user's iCloud account also provides a layer of security for that user. Even if a user loses a device, the documents on that device are not lost if they are in iCloud storage.

**Important:** The iCloud APIs do not work with garbage collection in macOS. If your existing code uses garbage collection, update your code to use ARC instead.

[https://developer.apple.com/library/archive/documentation/FileManagement/Conceptual/FileSystemProgrammingGuide/iCloud/iCloud.html#//apple\\_ref/doc/uid/TP40010672-CH12-SW1](https://developer.apple.com/library/archive/documentation/FileManagement/Conceptual/FileSystemProgrammingGuide/iCloud/iCloud.html#//apple_ref/doc/uid/TP40010672-CH12-SW1). For similar reasons, Apple also induces its customers to use the Accused Instrumentalities to infringe other claims of the '469 Patent. Apple specifically intended

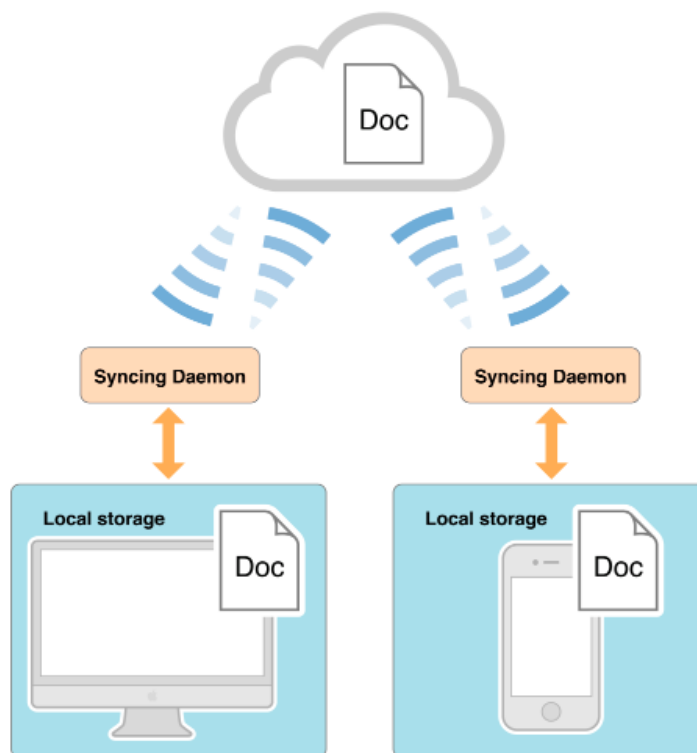
1 and was aware that the normal and customary use of the Accused Instrumentalities  
2 would infringe the '469 Patent. Apple performed the acts that constitute induced  
3 infringement, and would induce actual infringement, with the knowledge of the '469  
4 Patent and with the knowledge, or willful blindness to the probability, that the induced  
5 acts would constitute infringement. On information and belief, Apple engaged in such  
6 inducement to promote the sales of the Accused Instrumentalities, *e.g.*, through Apple's  
7 user manuals, product support, marketing materials, demonstrations, installation  
8 support, and training materials to actively induce the users of the accused products to  
9 infringe the '469 Patent. Accordingly, Apple as induced and continues to induce end  
10 users of the accused products to use the accused products in their ordinary and  
11 customary way with compatible systems to make and/or use systems infringing the '469  
12 Patent, knowing that such use of the Accused Instrumentalities with compatible systems  
13 will result in infringement of the '469 Patent. Accordingly, Apple has been (since at  
14 least as of filing of the original complaint), and currently is, inducing infringement of  
15 the '469 Patent, in violation of 35 U.S.C. § 271(b).

16 49. Apple also indirectly infringes the '469 Patent by manufacturing, using,  
17 selling, offering for sale, and/or importing the accused products, with knowledge that  
18 the accused products were and are especially manufactured and/or especially adapted  
19 for use in infringing the '469 Patent and are not a staple article or commodity of  
20 commerce suitable for substantial non-infringing use. On information and belief, the  
21 Accused Instrumentality is designed to be used as a recording apparatus comprising  
22 each of the following: receiver configured to receive data from an external server having  
23 a first recording medium that stores data and having first management data for  
24 managing the data, data recorder configured to record the data received by the receiver  
25 on a second recording medium, management data producer configured to produce  
26 second management data for managing data recorded on the second recording medium  
27 based on the first management data, data reader configured to read data from a third  
28 recording medium that stores data and third management data for managing the data,

1 and controller configured to control the data recorder to record data read from the third  
 2 recording medium when the third management data is not found within the second  
 3 management data recorded on the second recording medium. Because the Accused  
 4 Instrumentality is designed to operate as the claimed recording apparatus, the Accused  
 5 Instrumentality has no substantial non-infringing uses, and any other uses would be  
 6 unusual, far-fetched, illusory, impractical, occasional, aberrant, or experimental.  
 7 Apple's manufacture, use, sale, offering for sale, and/or importation of the Accused  
 8 Instrumentality constitutes contributory infringement of the '469 Patent. Accordingly,  
 9 Apple has been, and currently is, contributorily infringing the '469 patent, in violation  
 10 of 35 U.S.C. § 271(c).

11 50. The Accused Instrumentalities include a "data recording apparatus." For  
 12 example, the Accused Instrumentalities communicate and transfer a document stored  
 13 on one Apple device (e.g. a MacBook), to another Apple device (e.g. an iPhone), over  
 14 the iCloud drive—each of which include memory for storage of data:

15 **Figure 4-1 Pushing document changes to iCloud**





[https://developer.apple.com/library/archive/documentation/FileManagement/Conceptual/FileSystemProgrammingGuide/iCloud/iCloud.html#//apple\\_ref/doc/uid/TP40010672-CH12-SW1](https://developer.apple.com/library/archive/documentation/FileManagement/Conceptual/FileSystemProgrammingGuide/iCloud/iCloud.html#//apple_ref/doc/uid/TP40010672-CH12-SW1).

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## iCloud File Management

Use the iCloud Storage APIs to write user documents and data to a central location and access those items from all of a user's computers and iOS devices. Making a user's documents ubiquitous using iCloud means that a user can view or edit those documents from any device without having to sync or transfer files explicitly. Storing documents in a user's iCloud account also provides a layer of security for that user. Even if a user loses a device, the documents on that device are not lost if they are in iCloud storage.

**Important:** The iCloud APIs do not work with garbage collection in macOS. If your existing code uses garbage collection, update your code to use ARC instead.

## Storing and Using Documents in iCloud

Documents in iCloud provide the central location from which updates can be delivered to a user's computers and iOS devices. All documents must be created on a local disk initially and moved to a user's iCloud account later. A document targeted for iCloud storage is not moved to iCloud immediately, though. First, it is moved from its current location in the file system to a local system-managed directory where it can be monitored by the iCloud service. After that transfer, the file is transferred to iCloud and to the user's other devices as soon as possible.

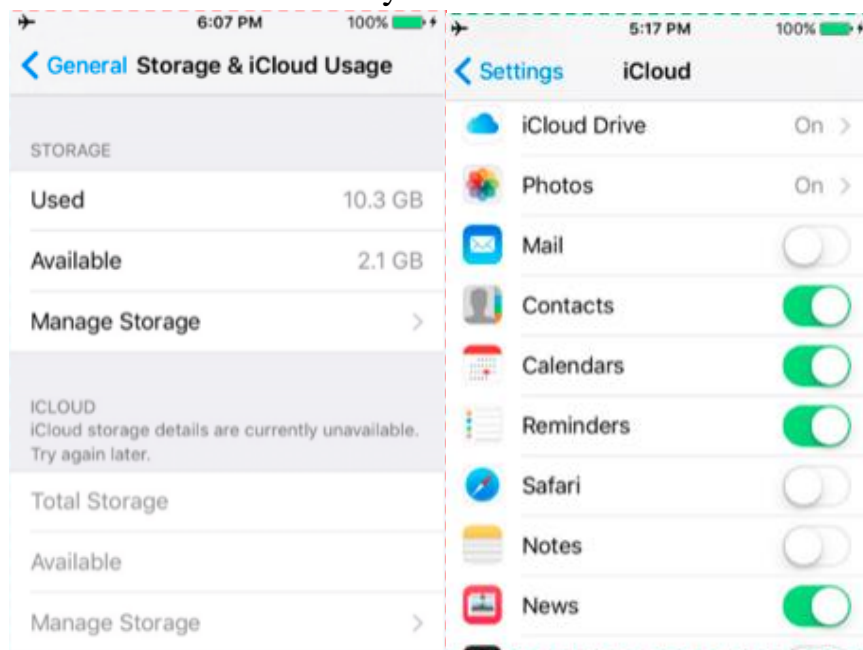
While in iCloud storage, changes made on one device are stored locally and then pushed to iCloud using a local daemon, as shown in Figure 4–1. To prevent large numbers of conflicting changes from occurring at the same time, apps are expected to use file coordinator objects to perform all changes. File coordinators mediate changes between your app and the daemon that facilitates the transfer of the document to and from iCloud. In this way, the file coordinator acts like a locking mechanism for the document, preventing your app and the daemon from modifying the document simultaneously.

[https://developer.apple.com/library/archive/documentation/FileManagement/Conceptual/FileSystemProgrammingGuide/iCloud/iCloud.html#//apple\\_ref/doc/uid/TP40010672-CH12-SW1](https://developer.apple.com/library/archive/documentation/FileManagement/Conceptual/FileSystemProgrammingGuide/iCloud/iCloud.html#//apple_ref/doc/uid/TP40010672-CH12-SW1).

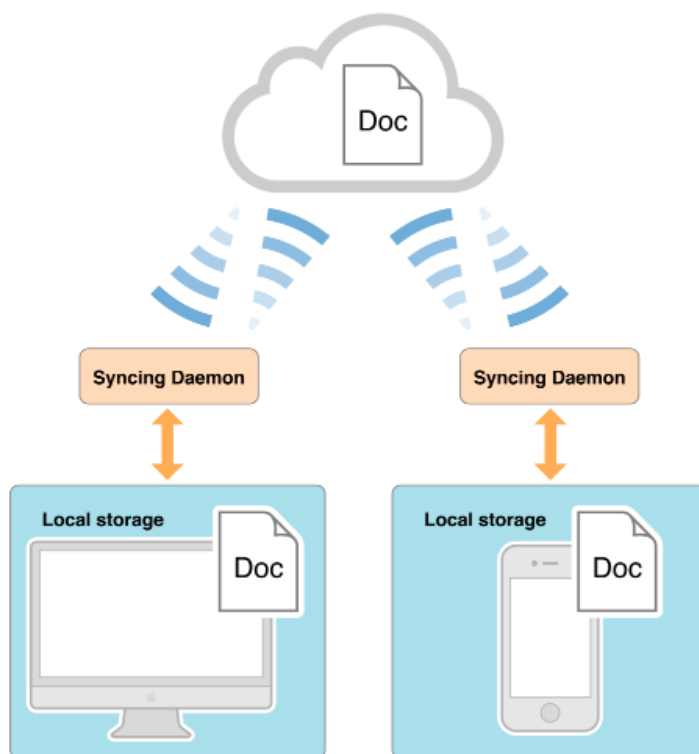
51. The Accused Instrumentalities include a “receiver configured to receive data from an external server having a first recording medium that stores data and first management data for managing the data.” For example, the iPhone includes a receiver that receives information transmitted from, for example, the iCloud drive, which is an



example of an external server. For example, the iPhone includes gigabytes of storage, on which data received by the iCloud Drive can be written.



**Figure 4-1** Pushing document changes to iCloud



[https://developer.apple.com/library/archive/documentation/FileManagement/Conceptual/FileSystemProgrammingGuide/iCloud/iCloud.html#//apple\\_ref/doc/uid/TP40010672-CH12-SW1](https://developer.apple.com/library/archive/documentation/FileManagement/Conceptual/FileSystemProgrammingGuide/iCloud/iCloud.html#//apple_ref/doc/uid/TP40010672-CH12-SW1).

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## iCloud File Management

Use the iCloud Storage APIs to write user documents and data to a central location and access those items from all of a user's computers and iOS devices. Making a user's documents ubiquitous using iCloud means that a user can view or edit those documents from any device without having to sync or transfer files explicitly. Storing documents in a user's iCloud account also provides a layer of security for that user. Even if a user loses a device, the documents on that device are not lost if they are in iCloud storage.

**Important:** The iCloud APIs do not work with garbage collection in macOS. If your existing code uses garbage collection, update your code to use ARC instead.

## Storing and Using Documents in iCloud

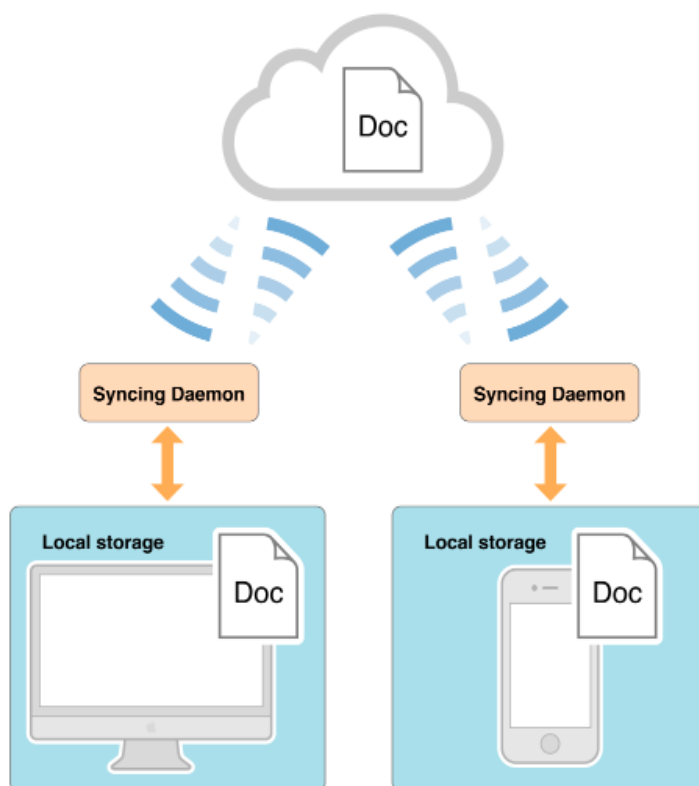
Documents in iCloud provide the central location from which updates can be delivered to a user's computers and iOS devices. All documents must be created on a local disk initially and moved to a user's iCloud account later. A document targeted for iCloud storage is not moved to iCloud immediately, though. First, it is moved from its current location in the file system to a local system-managed directory where it can be monitored by the iCloud service. After that transfer, the file is transferred to iCloud and to the user's other devices as soon as possible.

While in iCloud storage, changes made on one device are stored locally and then pushed to iCloud using a local daemon, as shown in Figure 4–1. To prevent large numbers of conflicting changes from occurring at the same time, apps are expected to use file coordinator objects to perform all changes. File coordinators mediate changes between your app and the daemon that facilitates the transfer of the document to and from iCloud. In this way, the file coordinator acts like a locking mechanism for the document, preventing your app and the daemon from modifying the document simultaneously.

[https://developer.apple.com/library/archive/documentation/FileManagement/Conceptual/FileSystemProgrammingGuide/iCloud/iCloud.html#//apple\\_ref/doc/uid/TP40010672-CH12-SW1](https://developer.apple.com/library/archive/documentation/FileManagement/Conceptual/FileSystemProgrammingGuide/iCloud/iCloud.html#//apple_ref/doc/uid/TP40010672-CH12-SW1).

52. The Accused Instrumentalities include a “data recorder configured to record the data received by the receiver on a second recording medium.” For example, the iCloud drive will record data received by the iPhone into memory contained therein.

Figure 4-1 Pushing document changes to iCloud



[https://developer.apple.com/library/archive/documentation/FileManagement/Conceptual/FileSystemProgrammingGuide/iCloud/iCloud.html#//apple\\_ref/doc/uid/TP40010672-CH12-SW1](https://developer.apple.com/library/archive/documentation/FileManagement/Conceptual/FileSystemProgrammingGuide/iCloud/iCloud.html#//apple_ref/doc/uid/TP40010672-CH12-SW1)

53. The Accused Instrumentalities further includes a “management data producer configured to produce second management data for managing data recorded on the second recording medium based on the first management data.” For example, the iCloud drive is designed to sync the data written on to the iPhone so that it stored and managed in the same manner as the data is stored on the MacBook (e.g. within the same kind of applications):

iCloud will:

- Sync Calendars
- SyncSafari Bookmarks (though not display them on the iCloud website)
- Sync Contacts
- Sync photos added to or taken on one device onto other devices
- Access @me.com email
- Sync iWork documents only between your Mac and iOS devices - automatically from iOS devices by dragging individual documents from a Mac to the iCloud website (and the cannot be re-downloaded until they have been edited on an iOS device)

Each of these can be turned on or off on each device; you cannot selectively sync within one data type - i.e. it's all or no Contacts, not a selection, and so on.

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## Here's how it works

iCloud Photos automatically keeps every photo and video you take in iCloud, so you can access your library from any device, anytime you want. [Any changes you make](#) to your collection on one device, change on your other devices too. Your photos and videos stay organized into Moments, Collections, and Years. And all of your [Memories](#) and [People](#) are updated everywhere. That way you can quickly find the moment, family member, or friend you're looking for.

Your collection uploads to iCloud each time your device connects to Wi-Fi and your battery is charged. When you have iOS 11 or later, your library updates over cellular too. Depending on your Internet speed, the time it takes for you to see your photos and videos on all of your devices and iCloud.com might vary.

<https://support.apple.com/en-sg/HT204264>

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# iCloud File Management

Use the iCloud Storage APIs to write user documents and data to a central location and access those items from all of a user's computers and iOS devices. Making a user's documents ubiquitous using iCloud means that a user can view or edit those documents from any device without having to sync or transfer files explicitly. Storing documents in a user's iCloud account also provides a layer of security for that user. Even if a user loses a device, the documents on that device are not lost if they are in iCloud storage.

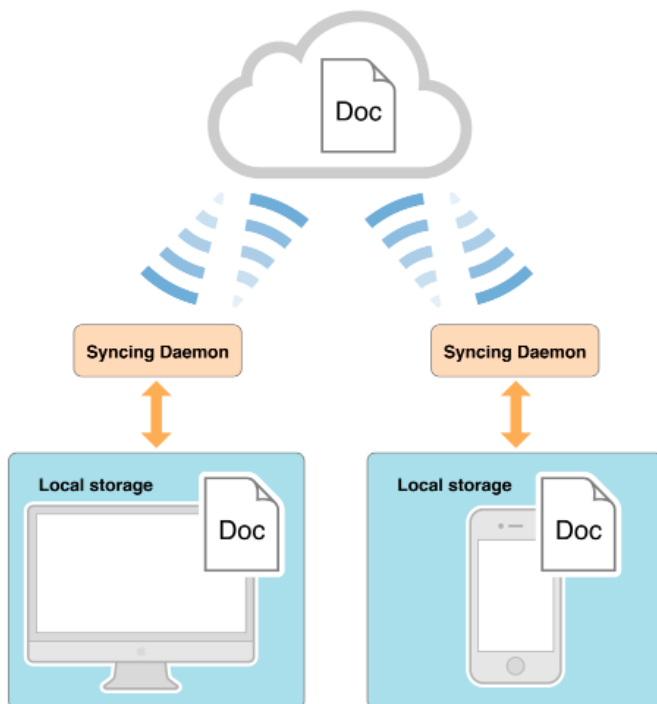
**Important:** The iCloud APIs do not work with garbage collection in macOS. If your existing code uses garbage collection, update your code to use ARC instead.

## Storing and Using Documents in iCloud

Documents in iCloud provide the central location from which updates can be delivered to a user's computers and iOS devices. All documents must be created on a local disk initially and moved to a user's iCloud account later. A document targeted for iCloud storage is not moved to iCloud immediately, though. First, it is moved from its current location in the file system to a local system-managed directory where it can be monitored by the iCloud service. After that transfer, the file is transferred to iCloud and to the user's other devices as soon as possible.

While in iCloud storage, changes made on one device are stored locally and then pushed to iCloud using a local daemon, as shown in Figure 4-1. To prevent large numbers of conflicting changes from occurring at the same time, apps are expected to use file coordinator objects to perform all changes. File coordinators mediate changes between your app and the daemon that facilitates the transfer of the document to and from iCloud. In this way, the file coordinator acts like a locking mechanism for the document, preventing your app and the daemon from modifying the document simultaneously.

**Figure 4-1** Pushing document changes to iCloud



1 [https://developer.apple.com/library/archive/documentation/FileManagement/Conceptu](https://developer.apple.com/library/archive/documentation/FileManagement/Conceptual/FileSystemProgrammingGuide/iCloud/iCloud.html#//apple_ref/doc/uid/TP40010672-CH12-SW1)  
 2 [al/FileSystemProgrammingGuide/iCloud/iCloud.html#//apple\\_ref/doc/uid/TP4001067](https://developer.apple.com/library/archive/documentation/FileManagement/Conceptual/FileSystemProgrammingGuide/iCloud/iCloud.html#//apple_ref/doc/uid/TP40010672-CH12-SW1)  
 3 [2-CH12-SW1](https://developer.apple.com/library/archive/documentation/FileManagement/Conceptual/FileSystemProgrammingGuide/iCloud/iCloud.html#//apple_ref/doc/uid/TP40010672-CH12-SW1).

4 54. The Accused Instrumentalities further include a “data reader configured  
 5 to read data from a third recording medium that stores data and third management data  
 6 for managing the data.” For example, the Accused Instrumentalities will read data  
 7 stored in memory on a MacBook and will manage the data on the MacBook so that it is  
 8 synced with data on the iCloud Drive and iPhone.

iCloud will:

- Sync Calendars
- SyncSafari Bookmarks (though not display them on the iCloud website)
- Sync Contacts
- Sync photos added to or taken on one device onto other devices
- Access @me.com email
- Sync iWork documents only between your Mac and iOS5 devices - automatically from iOS devices by  
 by dragging individual documents from a Mac to the iCloud website (and the cannot be re-  
 downloaded until they have been edited on an iOS device)

Each of these can be turned on or off on each device; you cannot selectively sync within one data type -  
 i.e. it's all or no Contacts, not a selection, and so on.

16 <https://discussions.apple.com/thread/3743670?tstart=0>

### Here's how it works

iCloud Photos automatically keeps every photo and video you take in iCloud, so you can  
 access your library from any device, anytime you want. [Any changes you make](#) to your  
 collection on one device, change on your other devices too. Your photos and videos stay  
 organized into Moments, Collections, and Years. And all of your [Memories](#) and [People](#) are  
 updated everywhere. That way you can quickly find the moment, family member, or friend  
 you're looking for.

Your collection uploads to iCloud each time your device connects to Wi-Fi and your battery is charged.  
 When you have iOS 11 or later, your library updates over cellular too. Depending on your Internet speed,  
 the time it takes for you to see your photos and videos on all of your devices and iCloud.com might vary.

25 <https://support.apple.com/en-sg/HT204264>

[Previous](#) [Next](#)

## iCloud File Management

Use the iCloud Storage APIs to write user documents and data to a central location and access those items from all of a user's computers and iOS devices. Making a user's documents ubiquitous using iCloud means that a user can view or edit those documents from any device without having to sync or transfer files explicitly. Storing documents in a user's iCloud account also provides a layer of security for that user. Even if a user loses a device, the documents on that device are not lost if they are in iCloud storage.

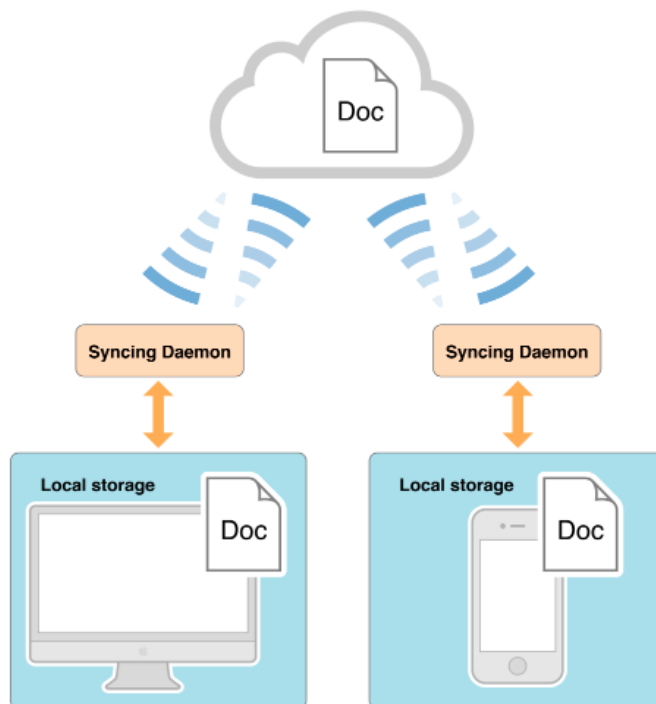
**Important:** The iCloud APIs do not work with garbage collection in macOS. If your existing code uses garbage collection, update your code to use ARC instead.

## Storing and Using Documents in iCloud

Documents in iCloud provide the central location from which updates can be delivered to a user's computers and iOS devices. All documents must be created on a local disk initially and moved to a user's iCloud account later. A document targeted for iCloud storage is not moved to iCloud immediately, though. First, it is moved from its current location in the file system to a local system-managed directory where it can be monitored by the iCloud service. After that transfer, the file is transferred to iCloud and to the user's other devices as soon as possible.

While in iCloud storage, changes made on one device are stored locally and then pushed to iCloud using a local daemon, as shown in Figure 4-1. To prevent large numbers of conflicting changes from occurring at the same time, apps are expected to use file coordinator objects to perform all changes. File coordinators mediate changes between your app and the daemon that facilitates the transfer of the document to and from iCloud. In this way, the file coordinator acts like a locking mechanism for the document, preventing your app and the daemon from modifying the document simultaneously.

**Figure 4-1** Pushing document changes to iCloud





1 [https://developer.apple.com/library/archive/documentation/FileManagement/Conceptual/FileSystemProgrammingGuide/iCloud/iCloud.html#//apple\\_ref/doc/uid/TP4001067](https://developer.apple.com/library/archive/documentation/FileManagement/Conceptual/FileSystemProgrammingGuide/iCloud/iCloud.html#//apple_ref/doc/uid/TP40010672-CH12-SW1)  
2 [2-CH12-SW1](https://developer.apple.com/library/archive/documentation/FileManagement/Conceptual/FileSystemProgrammingGuide/iCloud/iCloud.html#//apple_ref/doc/uid/TP40010672-CH12-SW1).  
3

4 55. Apple also infringes other claims of the '469 Patent, directly and through  
5 inducing infringement and contributory infringement.

6 56. On information and belief, use of the Accused Instrumentalities in their  
7 ordinary and customary fashion results in infringement of the methods claimed by  
8 the '469 Patent.

9 57. By making, using, offering for sale, selling and/or importing into the  
10 United States the Accused Instrumentalities, and touting the benefits of using the  
11 Accused Instrumentalities' data communication features, Apple has injured Data Scape  
12 and is liable to Data Scape for infringement of the '469 Patent pursuant to 35 U.S.C. §  
13 271.

14 58. As a result of Apple's infringement of the '469 Patent, Plaintiff Data Scape  
15 is entitled to monetary damages in an amount adequate to compensate for Apple's  
16 infringement, but in no event less than a reasonable royalty for the use made of the  
17 invention by Apple, together with interest and costs as fixed by the Court.

#### 18 **COUNT IV**

#### 19 **INFRINGEMENT OF U.S. PATENT NO. 7,617,537**

20 59. Plaintiff realleges and incorporates by reference the foregoing paragraphs,  
21 as if fully set forth herein.

22 60. Data Scape is the owner by assignment of United States Patent No.  
23 7,617,537 ("the '537 Patent") entitled "Communication System And Its Method and  
24 Communication Apparatus And Its Method." The '537 Patent was duly and legally  
25 issued by the United States Patent and Trademark Office on May 18, 2010. A true and  
26 correct copy of the ' 537 Patent is included as Exhibit D.

27 61. On information and belief, Apple has offered for sale, sold and/or  
28 imported into the United States Apple products and services that infringe the '537



1 patent, and continues to do so. By way of illustrative example, these infringing products  
2 and services include, without limitation, Apple's products and services, *e.g.*, Apple  
3 iCloud, Apple iTunes and the Apple devices on which they operate (*e.g.* iPhone,  
4 MacBook, iPad), and all versions and variations thereof since the issuance of the '537  
5 Patent ("Accused Instrumentalities").

6         62. On information and belief, Apple has directly infringed and continues to  
7 infringe the '537 Patent, for example, by making, selling, offering for sale, and/or  
8 importing the Accused Instrumentalities, and through its own use and testing of the  
9 Accused Instrumentalities, which perform the communication method to transfer  
10 content data to a first apparatus from a second apparatus claimed by Claim 1 of the '537  
11 Patent comprising: judging whether said first apparatus and said second apparatus are  
12 connected, comparing, upon judging that said first apparatus and said second apparatus  
13 are connected, an identifier of said first apparatus with an identifier stored in said second  
14 apparatus, comparing, when said identifier of said first apparatus corresponds to said  
15 identified stored in said second apparatus, a first list of content data of said second  
16 apparatus; transferring, from the second apparatus to the first apparatus, first content  
17 data, which is registered in said second list and is not registered in said first list; and  
18 deleting, from the first apparatus, second content data which is registered in said first  
19 list and is not registered in said second list. Upon information and belief, Apple uses  
20 the Accused Instrumentalities, which perform the infringing method, for its own  
21 internal non-testing business purposes, while testing the Accused Instrumentalities, and  
22 while providing technical support and repair services for the Accused Instrumentalities  
23 to Apple's customers.

24         63. On information and belief, Apple has had knowledge of the '537 Patent  
25 since at least the filing of the original Complaint in this action, or shortly thereafter, and  
26 on information and belief, Apple knew of the '537 Patent and knew of its infringement,  
27 including by way of this lawsuit. By the time of trial, Apple will have known and  
28

1 intended (since receiving such notice) that their continued actions would actively induce  
2 and contribute to the infringement of the claims of the '537 Patent.

3 64. On information and belief, use of the Accused Instrumentalities in their  
4 ordinary and customary fashion results in infringement of the claims of the '537 Patent.

5 65. Apple's affirmative acts of making, using, selling, offering for sale, and/or  
6 importing the Accused Instrumentalities have induced and continue to induce users of  
7 the Accused Instrumentalities to use the Accused Instrumentalities in their normal and  
8 customary way to perform methods that infringe Claim 1 of the '537 Patent, knowing  
9 that when the Accused Instrumentalities are used in their ordinary and customary  
10 manner such systems performing infringing communication methods to transfer content  
11 data to a first apparatus from a second apparatus, comprising: judging whether said first  
12 apparatus and said second apparatus are connected, comparing, upon judging that said  
13 first apparatus and said second apparatus are connected, an identifier of said first  
14 apparatus with an identifier stored in said second apparatus, comparing, when said  
15 identifier of said first apparatus corresponds to said identified stored in said second  
16 apparatus, a first list of content data of said second apparatus; transferring, from the  
17 second apparatus to the first apparatus, first content data, which is registered in said  
18 second list and is not registered in said first list; and deleting, from the first apparatus,  
19 second content data which is registered in said first list and is not registered in said  
20 second list. For example, Apple explains to customers the benefits of using the  
21 Accused Instrumentalities, such as by touting their advantages of communicating and  
22 sharing data among multiple devices:

# 1 Sync your iPhone, iPad, or iPod using iTunes on 2 your computer

3 Learn how to sync music, movies, and more using iTunes on your Mac or PC.

4 Before you use iTunes to sync content to your iOS device, consider using iCloud, Apple Music, or similar  
5 services to keep content from your Mac or PC in the cloud. This way, you can access your music, photos,  
6 and more on your iOS devices when you aren't near your computer. Learn more about [using Apple Music](#)  
7 or [iCloud Photos](#) instead of iTunes.

8 If you use iCloud or other services like Apple Music to keep your content up to date  
9 across all of your devices, syncing through iTunes might be turned off.

## 10 What you can sync with iTunes

- 11 • Albums, songs, playlists, movies, TV shows, podcasts, books, and audiobooks.
- 12 • Photos and videos.
- 13 • Contacts and calendars.
- 14 • Device backups that you made using iTunes.

15 iTunes features might vary by country or region.

16 <https://support.apple.com/en-us/HT201253>. For similar reasons, Apple also induces its  
17 customers to use the Accused Instrumentalities to infringe other claims of the '537  
18 Patent. Apple specifically intended and was aware that the normal and customary use  
19 of the Accused Instrumentalities would infringe the '537 Patent. Apple performed the  
20 acts that constitute induced infringement, and would induce actual infringement, with  
21 the knowledge of the '537 Patent and with the knowledge, or willful blindness to the  
22 probability, that the induced acts would constitute infringement. On information and  
23 belief, Apple engaged in such inducement to promote the sales of the Accused  
24 Instrumentalities, *e.g.*, through Apple's user manuals, product support, marketing  
25 materials, demonstrations, installation support, and training materials to actively induce  
26 the users of the accused products to infringe the '537 Patent. Accordingly, Apple as  
27 induced and continues to induce end users of the accused products to use the accused  
28 products in their ordinary and customary way with compatible systems to make and/or

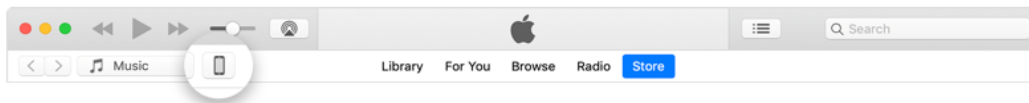
1 use systems infringing the '537 Patent, knowing that such use of the Accused  
2 Instrumentalities with compatible systems will result in infringement of the '537 Patent.  
3 Accordingly, Apple has been (since at least as of filing of the original complaint), and  
4 currently is, inducing infringement of the '537 Patent, in violation of 35 U.S.C. §  
5 271(b).

6 66. Apple also indirectly infringes the '537 Patent by manufacturing, using,  
7 selling, offering for sale, and/or importing the accused products, with knowledge that  
8 the accused products were and are especially manufactured and/or especially adapted  
9 for use in infringing the '537 Patent and are not a staple article or commodity of  
10 commerce suitable for substantial non-infringing use. On information and belief, the  
11 Accused Instrumentality is designed to perform infringing communication methods to  
12 transfer content data to a first apparatus from a second apparatus, comprising: judging  
13 whether said first apparatus and said second apparatus are connected, comparing, upon  
14 judging that said first apparatus and said second apparatus are connected, an identifier  
15 of said first apparatus with an identifier stored in said second apparatus, comparing,  
16 when said identifier of said first apparatus corresponds to said identified stored in said  
17 second apparatus, a first list of content data of said second apparatus; transferring, from  
18 the second apparatus to the first apparatus, first content data, which is registered in said  
19 second list and is not registered in said first list; and deleting, from the first apparatus,  
20 second content data which is registered in said first list and is not registered in said  
21 second list. Because the Accused Instrumentality is designed to perform the claimed  
22 method for communication, the Accused Instrumentality has no substantial non-  
23 infringing uses, and any other uses would be unusual, far-fetched, illusory, impractical,  
24 occasional, aberrant, or experimental. Apple's manufacture, use, sale, offering for sale,  
25 and/or importation of the Accused Instrumentality constitutes contributory infringement  
26 of the '537 Patent. Accordingly, Amazon has been, and currently is, contributorily  
27 infringing the '537 patent, in violation of 35 U.S.C. § 271(c).

1           67. The Accused Instrumentalities perform a communication method to  
2 transfer content data from a first apparatus to a second apparatus. For example, an  
3 iPhone, iPad or iPod touch (e.g. a first apparatus) can be connected to a MacBook via,  
4 e.g., a USB cable, to transfer files, e.g. music files, stored in the MacBook to the iPhone,  
5 iPad or iPod touch (e.g. a second apparatus).

## 6       **Sync or remove content using iTunes**

- 7       1. Open iTunes and connect your device to your computer with a USB cable.
- 8       2. Click the device icon in the upper-left corner of the iTunes window. Learn what to do [if you don't see the icon](#).

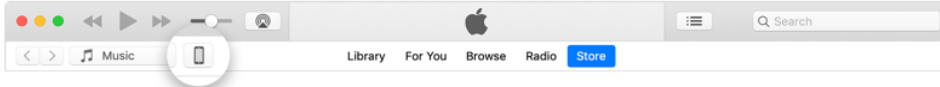


10  
11  
12       <https://support.apple.com/en-us/HT201253>.

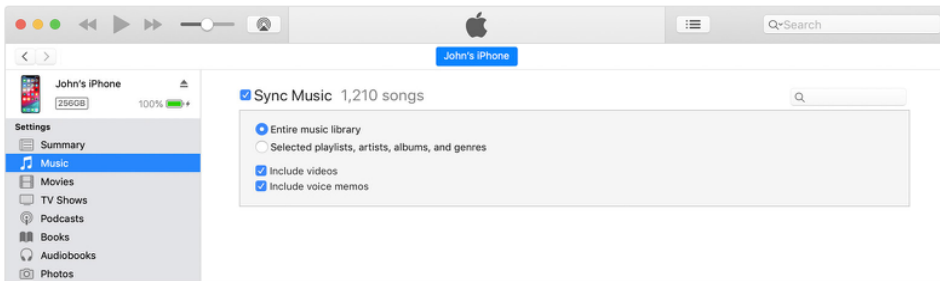
13           68. The Accused Instrumentalities perform a communication method to  
14 transfer content data from a first apparatus to a second apparatus further comprising  
15 judging whether said first apparatus and said second apparatus are connected. For  
16 example, iTunes can only transfer music files between the MacBook and the iPhone,  
17 iPad, or iPod touch if it determines that the devices are connected.

## Sync or remove content using iTunes

1. Open iTunes and connect your device to your computer with a USB cable.
2. Click the device icon in the upper-left corner of the iTunes window. Learn what to do [if you don't see the icon](#).



3. From the list under Settings on the left side of the iTunes window, click the type of content that you want to sync or remove.<sup>1</sup> To turn syncing on for a content type, select the checkbox next to Sync.



4. Select the checkbox next to each item that you want to sync.
5. Click the Apply button in the lower-right corner of the screen. If syncing doesn't start automatically, click the Sync button.

<https://support.apple.com/en-us/HT201253>.

69. The Accused Instrumentalities perform a communication method to transfer content data from a first apparatus to a second apparatus further comprising comparing, upon judging that said first apparatus and said second apparatus are connected, an identifier of said first apparatus with an identifier stored in said second apparatus. For example, when a iOS device (*e.g.* iPhone, iPad, iPod Touch) is

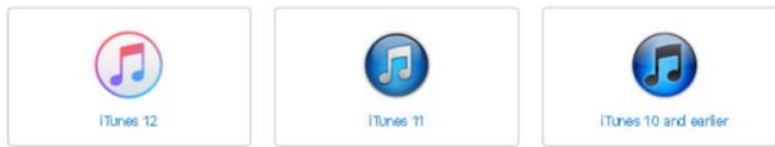


connected to the MacBook, the MacBook will display an identifier associated with the device.

## Locate and view your connected device in iTunes

After you connect your iPhone, iPad, iPod, or Apple TV to your computer, you can view it and access its settings in different areas of iTunes depending on the version you're using.

Connect your iPhone, iPad, iPod, or Apple TV to your computer using the USB cable that came with it or via Wi-Fi. Then, choose your version of iTunes to find the location of your device's icon.



### iTunes 12

View your device by clicking on the device's icon in the upper-left corner of the iTunes window.



If you have multiple devices connected to your computer, click the device icon, then choose your device from the menu.



<https://support.apple.com/en-us/HT203060>. For example, iTunes permits several playlists of music to be created which are unique to the iOS device, and, accordingly, the identifier is unique to the device:



Jim VanLeeuwen

Level 6 (18,874 points)



iPhone

Sep 4, 2012 1:12 PM in response to Keiloon

I use Method 2 as described in **How to use multiple iPods, iPads, or iPhones with one computer:**<http://support.apple.com/kb/HT1495>

I create several playlists and select which playlists I want on each device. Several playlists end up on all devices while others are only selected for one device. I keep one playlist strictly for "New Stuff" and I drag songs into or out of this playlist as my mood changes.

I don't ever check or uncheck items except holiday songs when the season passes.

[Reply](#)[Helpful](#)

[https://discussions.apple.com/thread/4267230\\_](https://discussions.apple.com/thread/4267230_)

70. The Accused Instrumentalities perform a communication method to transfer content data from a first apparatus to a second apparatus further comprising comparing, when said identifier of said first apparatus corresponds to said identifier stored in second apparatus, a first list of content data of said first apparatus and a second list of content data of said second apparatus. For example, when the iOS device is connected to the MacBook, iTunes will compare playlists of music created

1 for that device to playlists stored on the MacBook to determine if the two are  
2 identical.



Sep 4, 2012 1:12 PM in response to Keiloon

I use Method 2 as described in **How to use multiple iPods, iPads, or iPhones with one computer:**  
<http://support.apple.com/kb/HT1495>

I create several playlists and select which playlists I want on each device. Several playlists end up on all devices while others are only selected for one device. I keep one playlist strictly for "New Stuff" and I drag songs into or out of this playlist as my mood changes.

I don't ever check or uncheck items except holiday songs when the season passes.



<https://discussions.apple.com/thread/4267230>.



Oct 19, 2013 11:42 AM in response to louiepatterson

Hi louiepatterson,

Thanks for visiting Apple Support Communities.

If your entire iTunes library is syncing every time you connect your iPhone, you may want to try setting up syncing in iTunes again by following the steps in the appropriate article below. If you're syncing music, try un-checking and then re-checking the "Sync music" checkbox in iTunes.

**iTunes 11 for Mac: Set up syncing for iPod, iPhone, or iPad**  
<http://support.apple.com/kb/PH12113>

**iTunes 11 for Windows: Set up syncing for iPod, iPhone, or iPad**  
<http://support.apple.com/kb/PH12313>

Your entire library will sync again once more after this, but then only new songs should sync thereafter. If the issue persists, I'd try the troubleshooting steps in our iPhone assistant next:

**Frozen or unresponsive iPhone**  
<http://www.apple.com/support/iphone/assistant/phone/>

<https://discussions.apple.com/thread/5452203?tstart=0>

71. The Accused Instrumentalities perform a communication method to transfer content data from a first apparatus to a second apparatus further comprising transferring, from the second apparatus to the first apparatus, first content data, which is registered in said second list and is not registered in said first list. For example,

iTunes will transfer only songs found in the playlist of the MacBook that are not found in the playlist of the iOS device.



jeremy\_v



Community Specialists

Oct 19, 2013 11:42 AM in response to louiepatterson

Hi louiepatterson,

Thanks for visiting Apple Support Communities.

If your entire iTunes library is syncing every time you connect your iPhone, you may want to try setting up syncing in iTunes again by following the steps in the appropriate article below. If you're syncing music, try un-checking and then re-checking the "Sync music" checkbox in iTunes.

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Your entire library will sync again once more after this, but then only new songs should sync thereafter. If the issue persists, I'd try the troubleshooting steps in our iPhone assistant next:

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<http://www.apple.com/support/iphone/assistant/phone/>

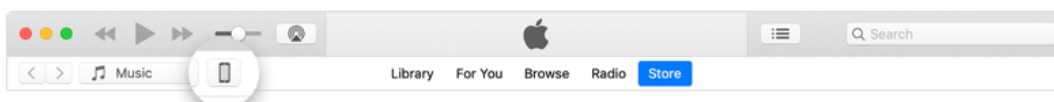
<https://discussions.apple.com/thread/5452203?tstart=0>.

72. The Accused Instrumentalities perform a communication method to transfer content data from a first apparatus to a second apparatus further comprising deleting, from the first apparatus, second content data, which registered in said first list and is not registered in the second list. For example, if an item is deleted from the

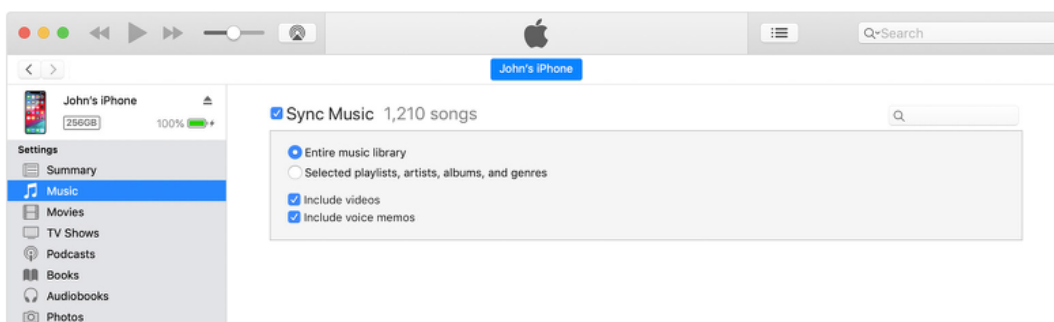
iTunes library on the MacBook, that item is deleted from the iTunes library of the associated device the next time they sync.

## Sync or remove content using iTunes

1. Open iTunes and connect your device to your computer with a USB cable.
2. Click the device icon in the upper-left corner of the iTunes window. Learn what to do [if you don't see the icon](#).



3. From the list under Settings on the left side of the iTunes window, click the type of content that you want to sync or remove.<sup>1</sup> To turn syncing on for a content type, select the checkbox next to Sync.



4. Select the checkbox next to each item that you want to sync.
5. Click the Apply button in the lower-right corner of the screen. If syncing doesn't start automatically, click the Sync button.

<https://support.apple.com/en-us/HT201253>.

5. By default, iTunes syncs your device whenever you connect it to your computer. If you want to have iTunes ask you before syncing, do one of the following:

- Require a prompt before syncing this device: Click Summary, then deselect "Open iTunes when this [device] is connected."
- Require a prompt before syncing all devices: Choose **Edit > Preferences**, click Devices, and select "Prevent iPods, iPhones, and iPads from syncing automatically."

6. When you're ready to sync, click Apply.

Tip: To automatically sync a connected device at any time, choose **File > Devices > Sync** [device name].

**WARNING:** If you delete an automatically synced item from your iTunes library, the deleted item is removed from your device the next time you sync.

73. Apple also infringes other claims of the '537 Patent, directly and through inducing infringement and contributory infringement.

74. On information and belief, use of the Accused Instrumentalities in their ordinary and customary fashion results in infringement of the methods claimed by the '537 Patent.

75. By making, using, offering for sale, selling and/or importing into the United States the Accused Instrumentalities, and touting the benefits of using the Accused Instrumentalities' data communication features, Apple has injured Data Scape and is liable to Data Scape for infringement of the '537 Patent pursuant to 35 U.S.C. § 271.

76. As a result of Apple's infringement of the '469 Patent, Plaintiff Data Scape is entitled to monetary damages in an amount adequate to compensate for Apple's infringement, but in no event less than a reasonable royalty for the use.

### **COUNT V**

### **INFRINGEMENT OF U.S. PATENT NO. 9,380,112**

77. Plaintiff realleges and incorporates by reference the foregoing paragraphs, as if fully set forth herein.

78. Data Scape is the owner by assignment of United States Patent No. 9,380,112 ("the '112 Patent") entitled "Communication System And Its Method and



1 Communication Apparatus And Its Method.” The ’112 Patent was duly and legally  
2 issued by the United States Patent and Trademark Office on June 28, 2016. A true and  
3 correct copy of the ’112 Patent is included as Exhibit E.

4 79. On information and belief, Apple has offered for sale, sold and/or  
5 imported into the United States Apple products and services that infringe the ’112  
6 patent, and continues to do so. By way of illustrative example, these infringing products  
7 and services include, without limitation, Apple’s products and services, *e.g.*, Apple  
8 iTunes and the Apple devices on which they operate (*e.g.* iPhone, MacBook, iPad), and  
9 all versions and variations thereof since the issuance of the ’112 Patent (“Accused  
10 Instrumentalities”).

11 80. On information and belief, Apple has directly infringed and continues to  
12 infringe the ’112 Patent, for example, by making, selling, offering for sale, and/or  
13 importing the Accused Instrumentalities, and through its own use and testing of the  
14 Accused Instrumentalities, which include a communication apparatus configured to  
15 transfer data to a portable apparatus claimed by Claim 1 of the ’112 Patent comprising:  
16 a memory configured to store a first list of musical content data; the data interface  
17 configured to detect a connection between the communication apparatus and the  
18 portable apparatus and circuitry configured to edit the first list of musical content data  
19 based on input from a user without regard to the connection of the communication  
20 apparatus and the portable apparatus, control transfer of selected musical content data  
21 stored in the communication apparatus to the portable apparatus via the data interface  
22 based on a result of the comparison after the connection of the communication apparatus  
23 and the portable apparatus is detected, and control playback of musical content data  
24 based on the edit first list of musical content data so that the musical content data  
25 referenced in the edited first list of musical content data is played back as a collection,  
26 the edited first list of musical content data being associated with an identifier stored in  
27 the communication apparatus that uniquely identifies the portable apparatus. Upon  
28 information and belief, Apple uses the Accused Instrumentalities, which consist of the

1 accused apparatus, for its own internal non-testing business purposes, while testing the  
2 Accused Instrumentalities, and while providing technical support and repair services  
3 for the Accused Instrumentalities to Apple's customers.

4 81. On information and belief, Apple has had knowledge of the '112 Patent  
5 since at least the filing of the original Complaint in this action, or shortly thereafter, and  
6 on information and belief, Apple knew of the '112 Patent and knew of its infringement,  
7 including by way of this lawsuit. By the time of trial, Apple will have known and  
8 intended (since receiving such notice) that their continued actions would actively induce  
9 and contribute to the infringement of the claims of the '112 Patent.

10 82. On information and belief, use of the Accused Instrumentalities in their  
11 ordinary and customary fashion results in infringement of the claims of the '112 Patent

12 83. Apple's affirmative acts of making, using, selling, offering for sale, and/or  
13 importing the Accused Instrumentalities have induced and continue to induce users of  
14 the Accused Instrumentalities to use the Accused Instrumentalities in their normal and  
15 customary way that infringe Claim 1 of the '112 Patent, knowing that when the Accused  
16 Instrumentalities are used in their ordinary and customary manner such systems include  
17 a communication apparatus configured to transfer data to a portable apparatus claimed  
18 by Claim 1 of the '112 Patent comprising: a memory configured to store a first list of  
19 musical content data; the data interface configured to detect a connection between the  
20 communication apparatus and the portable apparatus and circuitry configured to edit  
21 the first list of musical content data based on input from a user without regard to the  
22 connection of the communication apparatus and the portable apparatus, control transfer  
23 of selected musical content data stored in the communication apparatus to the portable  
24 apparatus via the data interface based on a result of the comparison after the connection  
25 of the communication apparatus and the portable apparatus is detected, and control  
26 playback of musical content data based on the edit first list of musical content data so  
27 that the musical content data referenced in the edited first list of musical content data is  
28 played back as a collection, the edited first list of musical content data being associated

with an identifier stored in the communication apparatus that uniquely identifies the portable apparatus. For example, Apple explains to customers the benefits of using the Accused Instrumentalities, such as by touting their advantages of communicating and sharing data among multiple devices:

## Sync your iPhone, iPad, or iPod using iTunes on your computer

Learn how to sync music, movies, and more using iTunes on your Mac or PC.

Before you use iTunes to sync content to your iOS device, consider using iCloud, Apple Music, or similar services to keep content from your Mac or PC in the cloud. This way, you can access your music, photos, and more on your iOS devices when you aren't near your computer. Learn more about [using Apple Music](#) or [iCloud Photos](#) instead of iTunes.

If you use iCloud or other services like Apple Music to keep your content up to date across all of your devices, syncing through iTunes might be turned off.

## What you can sync with iTunes

- Albums, songs, playlists, movies, TV shows, podcasts, books, and audiobooks.
- Photos and videos.
- Contacts and calendars.
- Device backups that you made using iTunes.

iTunes features might vary by country or region.

<https://support.apple.com/en-us/HT201253>. For similar reasons, Apple also induces its customers to use the Accused Instrumentalities to infringe other claims of the '112 Patent. Apple specifically intended and was aware that the normal and customary use of the Accused Instrumentalities would infringe the '112 Patent. Apple performed the acts that constitute induced infringement, and would induce actual infringement, with the knowledge of the '112 Patent and with the knowledge, or willful blindness to the probability, that the induced acts would constitute infringement. On information and belief, Apple engaged in such inducement to promote the sales of the Accused Instrumentalities, *e.g.*, through Apple's user manuals, product support, marketing

1 materials, demonstrations, installation support, and training materials to actively induce  
2 the users of the accused products to infringe the '112 Patent. Accordingly, Apple as  
3 induced and continues to induce end users of the accused products to use the accused  
4 products in their ordinary and customary way with compatible systems to make and/or  
5 use systems infringing the '112 Patent, knowing that such use of the Accused  
6 Instrumentalities with compatible systems will result in infringement of the '112 Patent.  
7 Accordingly, Apple has been (since at least as of filing of the original complaint), and  
8 currently is, inducing infringement of the '112 Patent, in violation of 35 U.S.C. §  
9 271(b).

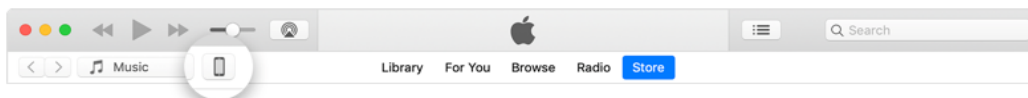
10       84. Apple also indirectly infringes the '112 Patent by manufacturing, using,  
11 selling, offering for sale, and/or importing the accused products, with knowledge that  
12 the accused products were and are especially manufactured and/or especially adapted  
13 for use in infringing the '112 Patent and are not a staple article or commodity of  
14 commerce suitable for substantial non-infringing use. On information and belief, the  
15 Accused Instrumentality is designed to include a communication apparatus configured  
16 to transfer data to a portable apparatus claimed by Claim 1 of the '112 Patent  
17 comprising: a memory configured to store a first list of musical content data; the data  
18 interface configured to detect a connection between the communication apparatus and  
19 the portable apparatus and circuitry configured to edit the first list of musical content  
20 data based on input from a user without regard to the connection of the communication  
21 apparatus and the portable apparatus, control transfer of selected musical content data  
22 stored in the communication apparatus to the portable apparatus via the data interface  
23 based on a result of the comparison after the connection of the communication apparatus  
24 and the portable apparatus is detected, and control playback of musical content data  
25 based on the edit first list of musical content data so that the musical content data  
26 referenced in the edited first list of musical content data is played back as a collection,  
27 the edited first list of musical content data being associated with an identifier stored in  
28 the communication apparatus that uniquely identifies the portable apparatus. Because

1 the Accused Instrumentality is designed to include the claims apparatus for  
2 communication, the Accused Instrumentality has no substantial non-infringing uses,  
3 and any other uses would be unusual, far-fetched, illusory, impractical, occasional,  
4 aberrant, or experimental. Apple's manufacture, use, sale, offering for sale, and/or  
5 importation of the Accused Instrumentality constitutes contributory infringement of the  
6 '112 Patent. Accordingly, Apple has been, and currently is, contributorily infringing the  
7 '112 patent, in violation of 35 U.S.C. § 271(c).

8 85. The Accused Instrumentalities includes "[a] communication apparatus  
9 configured to transfer data to a portable apparatus." For example, an iPhone, iPad or  
10 iPod touch (e.g. a portable apparatus) can be connected to a MacBook via, e.g., a USB  
11 cable, to transfer files, e.g. music files, stored in the MacBook (e.g. a communication  
12 apparatus) to the iPhone, iPad or iPod touch.

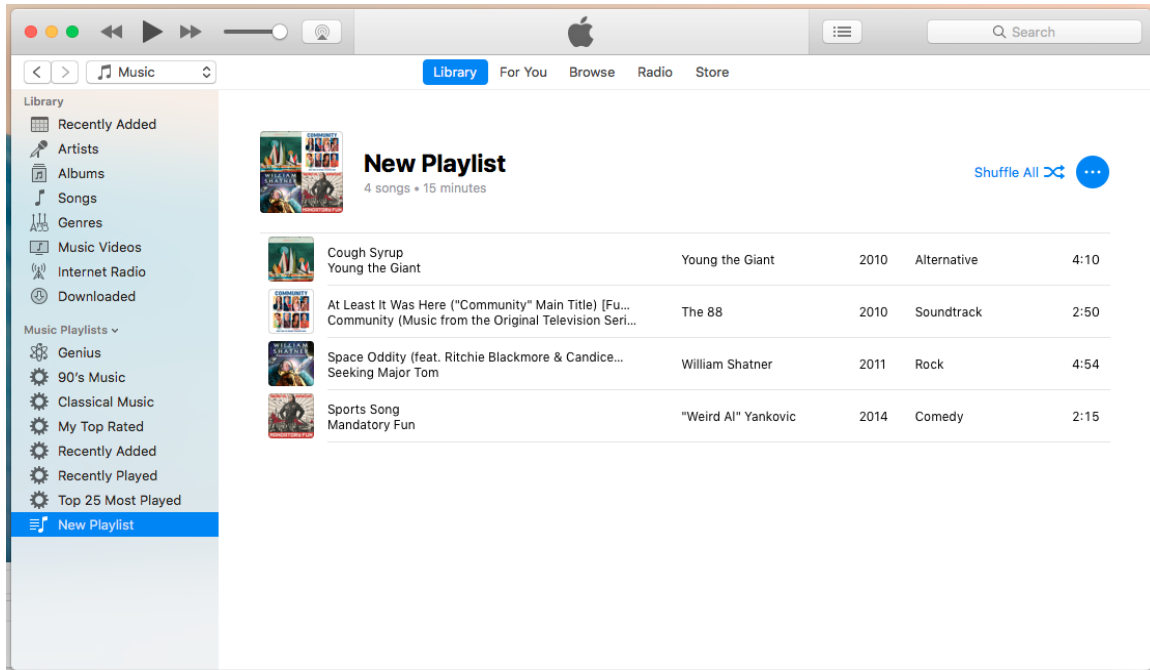
### 13 Sync or remove content using iTunes

- 14 1. Open iTunes and connect your device to your computer with a USB cable.
- 15 2. Click the device icon in the upper-left corner of the iTunes window. Learn what to do [if you don't see the icon](#).



18  
19 <https://support.apple.com/en-us/HT201253>.

20 86. The Accused Instrumentalities include a communication apparatus  
21 comprising "a memory configured to store a first list of musical content data." For  
22 example, the MacBook using iTunes contains memory that will store musical files as  
23 individual files, or as playlists:



87. The Accused Instrumentalities include a communication apparatus comprising “a data interface configured to detect a connection between the communication apparatus and the portable apparatus.” For example, when an iOS

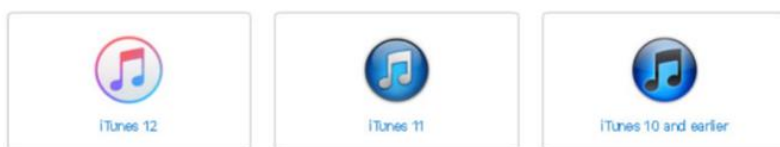


device (e.g. iPhone, iPad, iPod Touch) is connected to the MacBook, the MacBook will display an identifier associated with the device.

## Locate and view your connected device in iTunes

After you connect your iPhone, iPad, iPod, or Apple TV to your computer, you can view it and access its settings in different areas of iTunes depending on the version you're using.

Connect your iPhone, iPad, iPod, or Apple TV to your computer using the USB cable that came with it or via Wi-Fi. Then, choose your version of iTunes to find the location of your device's icon.



### iTunes 12

View your device by clicking on the device's icon in the upper-left corner of the iTunes window.



If you have multiple devices connected to your computer, click the device icon, then choose your device from the menu.



<https://support.apple.com/en-us/HT203060>. For example, when the devices are connected, iTunes will display a graphic user interface, allowing access to the data contained on the portable device:



Sep 4, 2012 1:12 PM in response to Keiloon

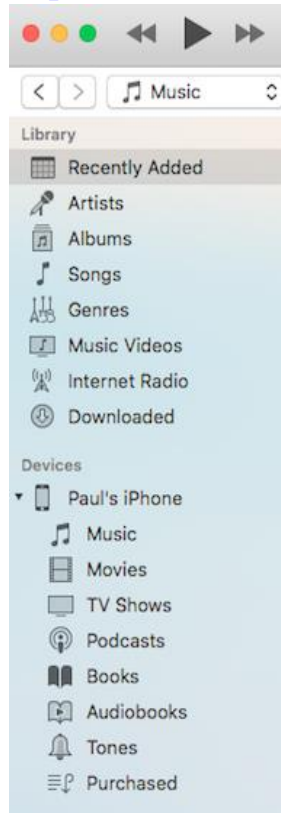
I use Method 2 as described in **How to use multiple iPods, iPads, or iPhones with one computer:**  
<http://support.apple.com/kb/HT1495>

I create several playlists and select which playlists I want on each device. Several playlists end up on all devices while others are only selected for one device. I keep one playlist strictly for "New Stuff" and I drag songs into or out of this playlist as my mood changes.

I don't ever check or uncheck items except holiday songs when the season passes.




<https://discussions.apple.com/thread/4267230>



88. The Accused Instrumentalities further include circuitry configured to “edit the first list of musical content without regard to the connection of the communication apparatus and the portable apparatus.” For example, iTunes allows a


1 user to edit Playlists without regard to whether or not the portable device (*e.g.* iPhone,  
2 iPod, iPad) is connected:

3 

4 Oct 24, 2016 11:43 PM in response to dayarts

5 If you directly sync from an iTunes library to iPhone, there are several ways, but this one may be most convenient. First, in  
6 you iTunes library, create a new playlist that **only has the songs you want on iPhone**. Or you can use an existing playlist  
7 for this purpose. I'll call it the *iPhone Songs* playlist for this discussion.

8 Select iPhone in iTunes by clicking its *device button*. Here's my iPod's *device button* in upper-left corner of iTunes window,  
9 circled in red (same location for an iPhone).

10 

11 iPhone's *Summary* settings screen appears in iTunes window. Along the left side, in the sidebar, under **Settings**, click **Music**.  
12 iPhone's *Music* settings screen appears to the right.

13 If iTunes is currently syncing **all** of your songs, **Sync Music** is probably checked already. Instead of the **Entire music library**  
14 option, choose option to sync **Selected playlists, artists, albums, and genres**. Below that, under *Playlists*, find that *iPhone*  
15 *Songs* playlist and select (checkmark) it. You don't need to select anything else on this screen. Click *Apply* button to sync  
16 just this one playlist and its songs to iPhone.

17 Going forward, to update songs on iPhone, update that *iPhone Songs* playlist in your iTunes library (add/remove songs).  
18 Your iPhone does **not** need to be connected. The next time you connect iPhone (or click *Sync* if already connected), iTunes  
19 automatically updates iPhone with the same changes.

20 NOTE: I described this method with just one *iPhone Songs* playlist, but you can also create and maintain multiple playlists  
21 for your iPhone (for different purposes) in your iTunes library, and select them all for syncing on iPhone's *Music* settings  
22 screen. They can be regular or smart playlists.

23 [https://discussions.apple.com/thread/7720242\\_](https://discussions.apple.com/thread/7720242_)

24 89. The Accused Instrumentalities further include circuitry configured to  
25 “control transfer of selected musical content data stored in the communication  
26 apparatus to the portable apparatus via the data interface based on a result of the  
27 comparison after the connection of the communication apparatus and the portable  
28 apparatus in connected.” For example, when the portable device (*e.g.* iPhone, iPod,  
iPad) is connected to the MacBook, iTunes will compare playlists of music created for  
that device to playlists stored on the MacBook to determine if the two are identical.

For example, iTunes will transfer only songs found in the playlist of the MacBook that are not found in the playlist of the portable device.

[https://discussions.apple.com/thread/4267230\\_](https://discussions.apple.com/thread/4267230_)



jeremy\_v



Community Specialists

Oct 19, 2013 11:42 AM in response to louiepatterson

Hi louiepatterson,

Thanks for visiting Apple Support Communities.

If your entire iTunes library is syncing every time you connect your iPhone, you may want to try setting up syncing in iTunes again by following the steps in the appropriate article below. If you're syncing music, try un-checking and then re-checking the "Sync music" checkbox in iTunes.

**iTunes 11 for Mac: Set up syncing for iPod, iPhone, or iPad**

<http://support.apple.com/kb/PH12113>

**iTunes 11 for Windows: Set up syncing for iPod, iPhone, or iPad**

<http://support.apple.com/kb/PH12313>

Your entire library will sync again once more after this, but then only new songs should sync thereafter. If the issue persists, I'd try the troubleshooting steps in our iPhone assistant next:

**Frozen or unresponsive iPhone**

<http://www.apple.com/support/iphone/assistant/phone/>

<https://discussions.apple.com/thread/5452203?tstart=0>

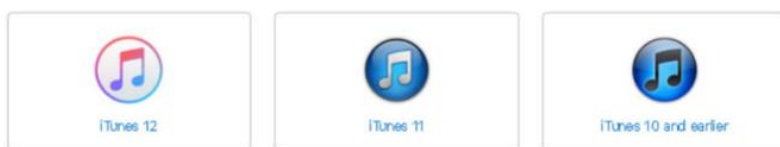
90. The Accused Instrumentalities further includes circuitry configured to “control playback of musical content data based on a the edited first list of musical content data so that the musical content data referenced in the edited first list of musical content data is played back as a collection, the edited first list of musical content data being associated with an identifier stored in the communication apparatus that uniquely identifies the portable apparatus.” For example, when a portable device

(e.g. iPhone, iPad, iPod Touch) is connected to the MacBook, the MacBook will display an identifier associated with the device.

## Locate and view your connected device in iTunes

After you connect your iPhone, iPad, iPod, or Apple TV to your computer, you can view it and access its settings in different areas of iTunes depending on the version you're using.

Connect your iPhone, iPad, iPod, or Apple TV to your computer using the USB cable that came with it or via Wi-Fi. Then, choose your version of iTunes to find the location of your device's icon.



### iTunes 12

View your device by clicking on the device's icon in the upper-left corner of the iTunes window.



If you have multiple devices connected to your computer, click the device icon, then choose your device from the menu.



<https://support.apple.com/en-us/HT203060>. For example, iTunes permits several playlists of music to be created which are unique to the iOS device, and, accordingly, the identifier is unique to the device:


<https://discussions.apple.com/thread/4267230>. The edited playlists transferred to the portable device can be played back as a collection on the portable device:


## Open Now Playing on your iPhone, iPad, iPod touch, or Android phone

When playing music on your iOS device or Android phone, a player appears at the bottom or lower-right corner of the screen. Tap the player to open Now Playing. From the Now Playing screen, you can control playback or volume, turn on shuffle or repeat, [download the song](#), and more.

### Shuffle songs

Open the Now Playing screen and scroll down.

Tap  to set Music to always shuffle a list of songs selected. Any album, playlist, or set of songs will play in a random order.

If shuffle is on, you'll see . To turn it off, tap the button until you see .



### Repeat songs

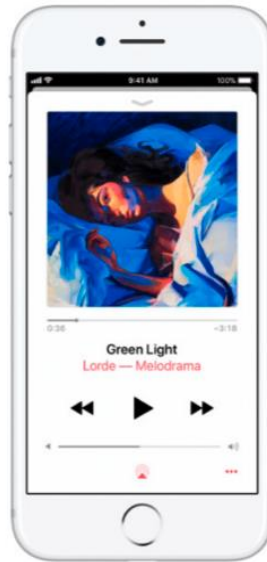
Open the Now Playing screen and scroll down.

Tap  once to turn on repeat for an entire playlist or album. Tap  again to turn on repeat for one song. Tap  a third time to clear the repeat.

If repeat is on, you'll see  or . To turn it off, tap the button until you see .

### More options

Under the Shuffle and Repeat buttons on Now Playing, you'll find the song's Lyrics<sup>1</sup> and a list of songs that will play Up Next. To reorganize Up Next, drag songs with  to rearrange their order, or swipe left to remove a song that you want to skip. If you don't see , turn off [repeat](#).



<https://support.apple.com/en-us/HT207230>.

91. Apple also infringes other claims of the '112 Patent, directly and through inducing infringement and contributory infringement.

92. On information and belief, use of the Accused Instrumentalities in their ordinary and customary fashion results in infringement of the methods claimed by the '112 Patent.

93. By making, using, offering for sale, selling and/or importing into the United States the Accused Instrumentalities, and touting the benefits of using the Accused Instrumentalities' data communication features, Apple has injured Data Scape and is liable to Data Scape for infringement of the '112 Patent pursuant to 35 U.S.C. § 271

94. As a result of Apple's infringement of the '112 Patent, Plaintiff Data Scape is entitled to monetary damages in an amount adequate to compensate for Apple's infringement, but in no event less than a reasonable royalty for the use.



**COUNT VI**

**INFRINGEMENT OF U.S. PATENT NO. 9,712,614**

95. Plaintiff realleges and incorporates by reference the foregoing paragraphs, as if fully set forth herein.

96. Data Scape is the owner by assignment of United States Patent No. 9,712,614 (“the ’614 Patent”) entitled “Communication System And Its Method and Communication Apparatus And Its Method.” The ’614 Patent was duly and legally issued by the United States Patent and Trademark Office on July 18, 2017. A true and correct copy of the ’614 Patent is included as Exhibit F.

97. On information and belief, Apple has offered for sale, sold and/or imported into the United States Apple products and services that infringe the ’614 patent, and continues to do so. By way of illustrative example, these infringing products and services include, without limitation, Apple’s products and services, *e.g.*, Apple iTunes and the Apple devices on which they operate (*e.g.* iPhone, MacBook, iPad), and all versions and variations thereof since the issuance of the ’614 Patent (“Accused Instrumentalities”).

98. On information and belief, Apple has directly infringed and continues to infringe the ’614 Patent, for example, by making, selling, offering for sale, and/or importing the Accused Instrumentalities, and through its own use and testing of the Accused Instrumentalities, which include a communication apparatus claimed by Claim 1 of the ’112 Patent comprising: a memory configured to store musical content data and a plurality of program lists associated with musical content data, a data interface configured to interface with an external reproduction apparatus, and circuitry configured to control playback of musical content data based on a program list so that the musical content data referenced in the program list is played back as a collection, the program list being associated with a predetermined identified uniquely identifying a predetermined external reproduction apparatus among a plurality of reproduction

1 apparatuses, control presentation of the program list to a user via a user interface, accept  
2 edits to the program list via a user interface, determine whether an identifier received  
3 by the circuitry via the data interface is the predetermined identified, control transfer of  
4 the musical content data to the predetermined external reproduction apparatus via the  
5 data interface based on the program list when the received identifier is the  
6 predetermined identifier without receiving information on selection of the musical  
7 content data from the predetermined external reproduction apparatus, compare the  
8 program list with a second list of musical content data stored in the predetermined  
9 external reproduction apparatus, identify a piece of musical content data common to the  
10 program list and the second list based on a result of the comparison, and control transfer  
11 to the predetermined external reproduction apparatus of the musical content data that is  
12 in the program list and is not in the second list of musical content data based on the  
13 result of the comparison such that transfer of the identified piece of musical content data  
14 common to the program list and the second list is omitted. Upon information and belief,  
15 Apple uses the Accused Instrumentalities, which consist of the accused apparatus, for  
16 its own internal non-testing business purposes, while testing the Accused  
17 Instrumentalities, and while providing technical support and repair services for the  
18 Accused Instrumentalities to Apple's customers.

19 99. On information and belief, Apple has had knowledge of the '614 Patent  
20 since at least the filing of the original Complaint in this action, or shortly thereafter, and  
21 on information and belief, Apple knew of the '614 Patent and knew of its infringement,  
22 including by way of this lawsuit. By the time of trial, Apple will have known and  
23 intended (since receiving such notice) that their continued actions would actively induce  
24 and contribute to the infringement of the claims of the '614 Patent.

25 100. On information and belief, use of the Accused Instrumentalities in their  
26 ordinary and customary fashion results in infringement of the claims of the '929 Patent.

27 101. Apple's affirmative acts of making, using, selling, offering for sale, and/or  
28 importing the Accused Instrumentalities have induced and continue to induce users of

1 the Accused Instrumentalities to use the Accused Instrumentalities in their normal and  
2 customary way that infringes Claim 1 of the '614 Patent, knowing that when the  
3 Accused Instrumentalities are used in their ordinary and customary manner such  
4 systems include a communication apparatus claimed by Claim 1 of the '614 Patent  
5 comprising: a memory configured to store musical content data and a plurality of  
6 program lists associated with musical content data, a data interface configured to  
7 interface with an external reproduction apparatus, and circuitry configured to control  
8 playback of musical content data based on a program list so that the musical content  
9 data referenced in the program list is played back as a collection, the program list being  
10 associated with a predetermined identified uniquely identifying a predetermined  
11 external reproduction apparatus among a plurality of reproduction apparatuses, control  
12 presentation of the program list to a user via a user interface, accept edits to the program  
13 list via a user interface, determine whether an identifier received by the circuitry via the  
14 data interface is the predetermined identified, control transfer of the musical content  
15 data to the predetermined external reproduction apparatus via the data interface based  
16 on the program list when the received identifier is the predetermined identifier without  
17 receiving information on selection of the musical content data from the predetermined  
18 external reproduction apparatus, compare the program list with a second list of musical  
19 content data stored in the predetermined external reproduction apparatus, identify a  
20 piece of musical content data common to the program list and the second list based on  
21 a result of the comparison, and control transfer to the predetermined external  
22 reproduction apparatus of the musical content data that is in the program list and is not  
23 in the second list of musical content data based on the result of the comparison such  
24 that transfer of the identified piece of musical content data common to the program list  
25 and the second list is omitted. For example, Apple explains to customers the benefits of  
26 using the Accused Instrumentalities, such as by touting their advantages of  
27 communicating and sharing data among multiple devices:  
28

# 1 Sync your iPhone, iPad, or iPod using iTunes on 2 your computer

3 Learn how to sync music, movies, and more using iTunes on your Mac or PC.

4 Before you use iTunes to sync content to your iOS device, consider using iCloud, Apple Music, or similar  
5 services to keep content from your Mac or PC in the cloud. This way, you can access your music, photos,  
6 and more on your iOS devices when you aren't near your computer. Learn more about [using Apple Music](#)  
or [iCloud Photos](#) instead of iTunes.

7 If you use iCloud or other services like Apple Music to keep your content up to date  
8 across all of your devices, syncing through iTunes might be turned off.

## 9 What you can sync with iTunes

- 10 • Albums, songs, playlists, movies, TV shows, podcasts, books, and audiobooks.
- 11 • Photos and videos.
- 12 • Contacts and calendars.
- 13 • Device backups that you made using iTunes.

14 iTunes features might vary by country or region.

15 <https://support.apple.com/en-us/HT201253>. For similar reasons, Apple also induces its  
16 customers to use the Accused Instrumentalities to infringe other claims of the '614  
17 Patent. Apple specifically intended and was aware that the normal and customary use  
18 of the Accused Instrumentalities would infringe the '614 Patent. Apple performed the  
19 acts that constitute induced infringement, and would induce actual infringement, with  
20 the knowledge of the '614 Patent and with the knowledge, or willful blindness to the  
21 probability, that the induced acts would constitute infringement. On information and  
22 belief, Apple engaged in such inducement to promote the sales of the Accused  
23 Instrumentalities, *e.g.*, through Apple's user manuals, product support, marketing  
24 materials, and training materials to actively induce the users of the accused products to  
25 infringe the '614 Patent. Accordingly, Apple has induced and continues to induce end  
26 users of the accused products to use the accused products in their ordinary and  
27 customary way to make and/or use systems infringing the '614 Patent, knowing that  
28

1 such use of the Accused Instrumentalities with compatible systems will result in  
2 infringement of the '614 Patent. Accordingly, Apple has been (since at least as of filing  
3 of the original complaint), and currently is, inducing infringement of the '614 Patent, in  
4 violation of 35 U.S.C. § 271(b).

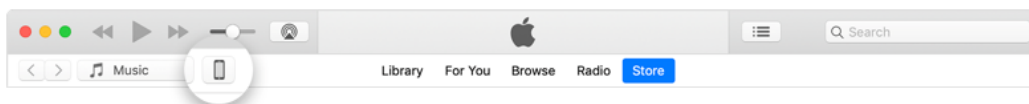
5 102. Apple also indirectly infringes the '614 Patent by manufacturing, using,  
6 selling, offering for sale, and/or importing the accused products, with knowledge that  
7 the accused products were and are especially manufactured and/or especially adapted  
8 for use in infringing the '614 Patent and are not a staple article or commodity of  
9 commerce suitable for substantial non-infringing use. On information and belief, the  
10 Accused Instrumentality is designed to include a communication apparatus claimed by  
11 Claim 1 of the '112 Patent comprising: a memory configured to store musical content  
12 data and a plurality of program lists associated with musical content data, a data  
13 interface configured to interface with an external reproduction apparatus, and circuitry  
14 configured to control playback of musical content data based on a program list so that  
15 the musical content data referenced in the program list is played back as a collection,  
16 the program list being associated with a predetermined identified uniquely identifying  
17 a predetermined external reproduction apparatus among a plurality of reproduction  
18 apparatuses, control presentation of the program list to a user via a user interface, accept  
19 edits to the program list via a user interface, determine whether an identifier received  
20 by the circuitry via the data interface is the predetermined identified, control transfer of  
21 the musical content data to the predetermined external reproduction apparatus via the  
22 data interface based on the program list when the received identifier is the  
23 predetermined identifier without receiving information on selection of the musical  
24 content data from the predetermined external reproduction apparatus, compare the  
25 program list with a second list of musical content data stored in the predetermined  
26 external reproduction apparatus, identify a piece of musical content data common to the  
27 program list and the second list based on a result of the comparison, and control transfer  
28 to the predetermined external reproduction apparatus of the musical content data that is

1 in the program list and is not in the second list of musical content data based on the  
 2 result of the comparison such that transfer of the identified piece of musical content data  
 3 common to the program list and the second list is omitted. Because the Accused  
 4 Instrumentality is designed to include the claimed communication apparatus, the  
 5 Accused Instrumentality has no substantial non-infringing uses, and any other uses  
 6 would be unusual, far-fetched, illusory, impractical, occasional, aberrant, or  
 7 experimental. Apple's manufacture, use, sale, offering for sale, and/or importation of  
 8 the Accused Instrumentality constitutes contributory infringement of the '614 Patent.  
 9 Accordingly, Apple has been, and currently is, contributorily infringing the '614 Patent  
 10 in violation of 35 U.S.C. § 271(c).

11 103. The Accused Instrumentalities includes "[a] communication apparatus."  
 12 For example, an iPhone, iPad or iPod touch can be connected to a MacBook via, e.g., a  
 13 USB cable, to transfer files, e.g. music files, stored in the MacBook (e.g. a  
 14 "communication apparatus").

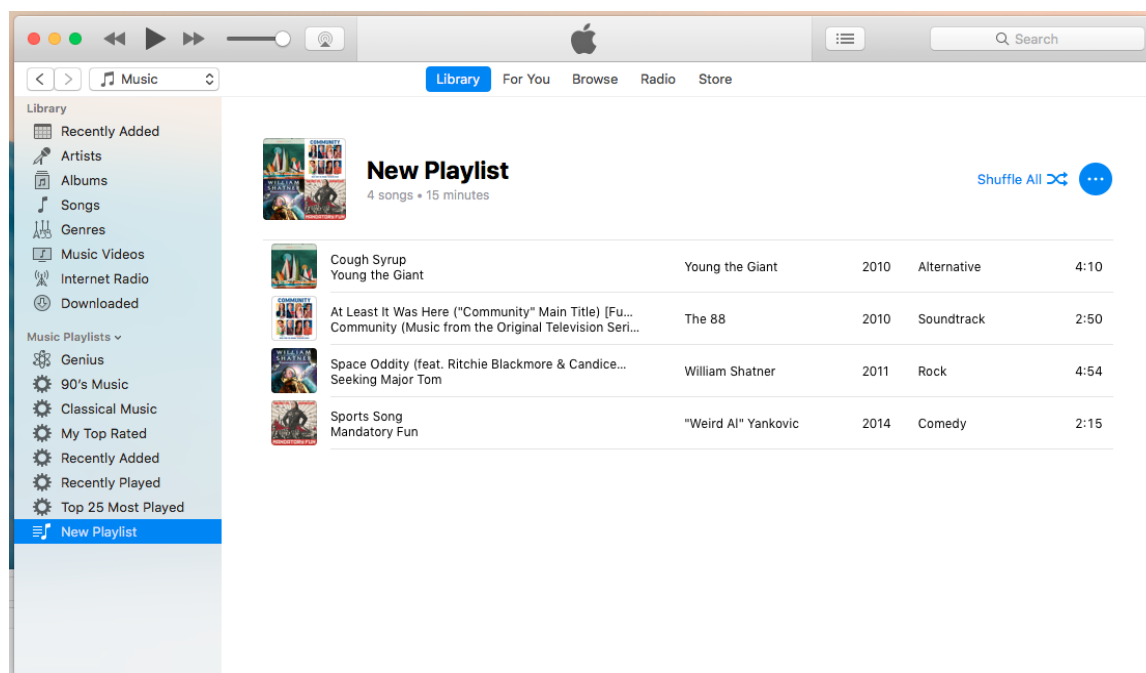
### 15 Sync or remove content using iTunes

- 16 1. Open iTunes and connect your device to your computer with a USB cable.
- 17 2. Click the device icon in the upper-left corner of the iTunes window. Learn what to do [if you don't see the icon](#).



18 <https://support.apple.com/en-us/HT201253>.

19  
 20  
 21 104. The Accused Instrumentalities include a communication apparatus  
 22 comprising "a memory configured to store musical content data and a plurality of  
 23 program lists associated with the musical content data." For example, the MacBook  
 24 using iTunes contains memory that will store musical files as individual files, or as  
 25 playlists associated with those files of music:  
 26  
 27  
 28



The Accused Instrumentalities include a communication apparatus further comprising “a data interface configured to interface with an external reproduction apparatus.” For example, when an iOS device (*e.g.* iPhone, iPad, iPod Touch) (*e.g.* external reproduction apparatus) is connected to the MacBook (*e.g.* the communication



apparatus), iTunes will display a graphic user interface, allowing access to the data contained on the portable device:



Sep 4, 2012 1:12 PM in response to Keiloon

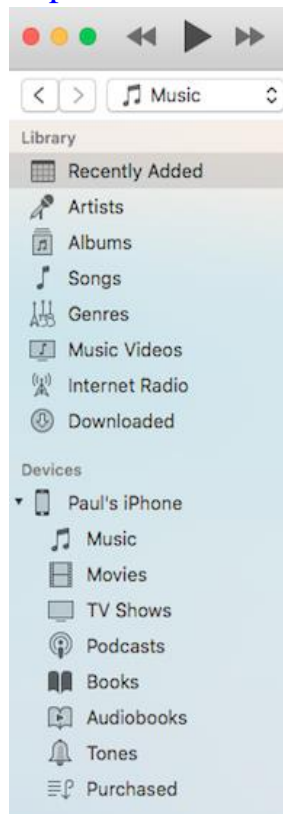
I use Method 2 as described in **How to use multiple iPods, iPads, or iPhones with one computer:**  
<http://support.apple.com/kb/HT1495>

I create several playlists and select which playlists I want on each device. Several playlists end up on all devices while others are only selected for one device. I keep one playlist strictly for "New Stuff" and I drag songs into or out of this playlist as my mood changes.

I don't ever check or uncheck items except holiday songs when the season passes.



<https://discussions.apple.com/thread/4267230>



105. The Accused Instrumentalities further include a communication apparatus comprising circuitry configured to “control playback of musical content data based on a program lists so that the musical content data referenced in the


program list is played back as a collection, the program list being associated with a predetermined identifier uniquely identifying a predetermined external reproduction apparatus among a plurality of reproduction apparatuses. For example, iTunes allows musical files to be played as a “Playlist” consisting of a collection of musical files:

#### Open Now Playing on your iPhone, iPad, iPod touch, or Android phone

When playing music on your iOS device or Android phone, a player appears at the bottom or lower-right corner of the screen. Tap the player to open Now Playing. From the Now Playing screen, you can control playback or volume, turn on shuffle or repeat, [download the song](#), and more.

#### Shuffle songs

Open the Now Playing screen and scroll down.

Tap  to set Music to always shuffle a list of songs selected. Any album, playlist, or set of songs will play in a random order.

If shuffle is on, you'll see . To turn it off, tap the button until you see .



#### Repeat songs

Open the Now Playing screen and scroll down.

Tap  once to turn on repeat for an entire playlist or album. Tap  again to turn on repeat for one song. Tap  a third time to clear the repeat.

If repeat is on, you'll see  or . To turn it off, tap the button until you see .

#### More options

Under the Shuffle and Repeat buttons on Now Playing, you'll find the song's Lyrics<sup>1</sup> and a list of songs that will play Up Next. To reorganize Up Next, drag songs with  to rearrange their order, or swipe left to remove a song that you want to skip. If you don't see , turn off [repeat](#).



<https://support.apple.com/en-us/HT207230>. The Playlists can be uniquely associated with different iOS devices (e.g. external reproduction apparatuses) and iTunes with

display an identifier associated with that device when the communication apparatus and the external reproduction apparatus are connected:

## Locate and view your connected device in iTunes

After you connect your iPhone, iPad, iPod, or Apple TV to your computer, you can view it and access its settings in different areas of iTunes depending on the version you're using.

Connect your iPhone, iPad, iPod, or Apple TV to your computer using the USB cable that came with it or via Wi-Fi. Then, choose your version of iTunes to find the location of your device's icon.



### iTunes 12

View your device by clicking on the device's icon in the upper-left corner of the iTunes window.



If you have multiple devices connected to your computer, click the device icon, then choose your device from the menu.



<https://support.apple.com/en-us/HT203060>.

Jim VanLeeuwen | Level 6 (18,874 points) | iPhone

Sep 4, 2012 1:12 PM in response to Keiloon

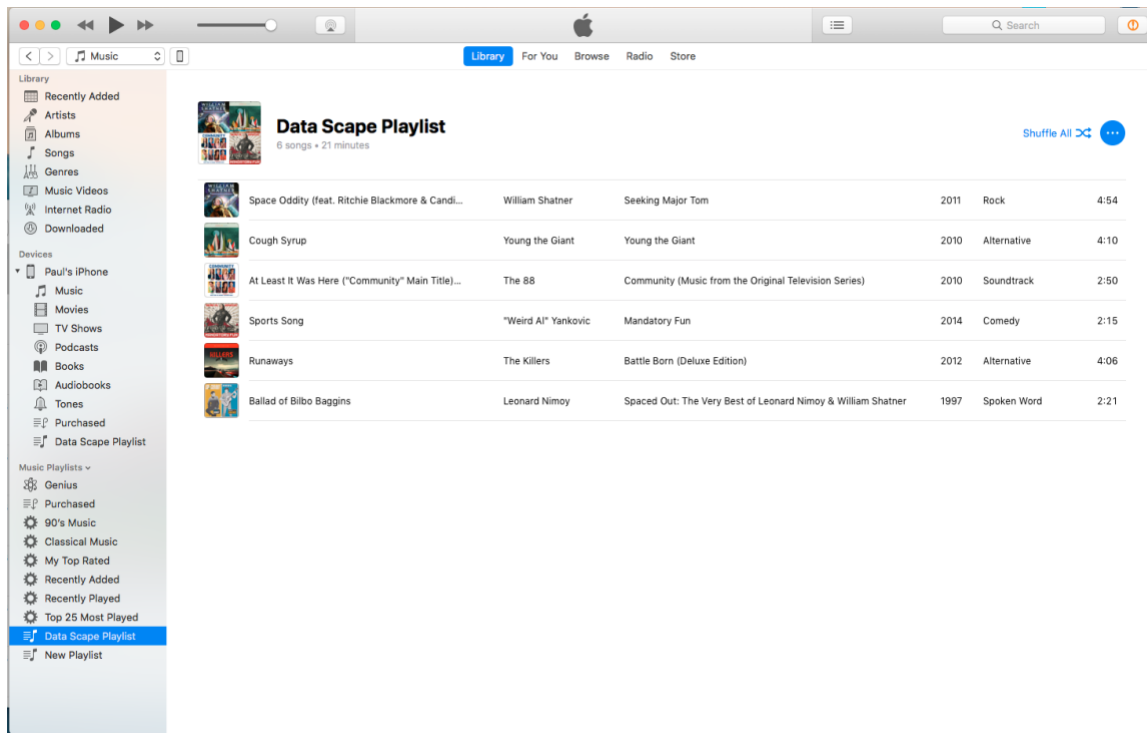
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I don't ever check or uncheck items except holiday songs when the season passes.

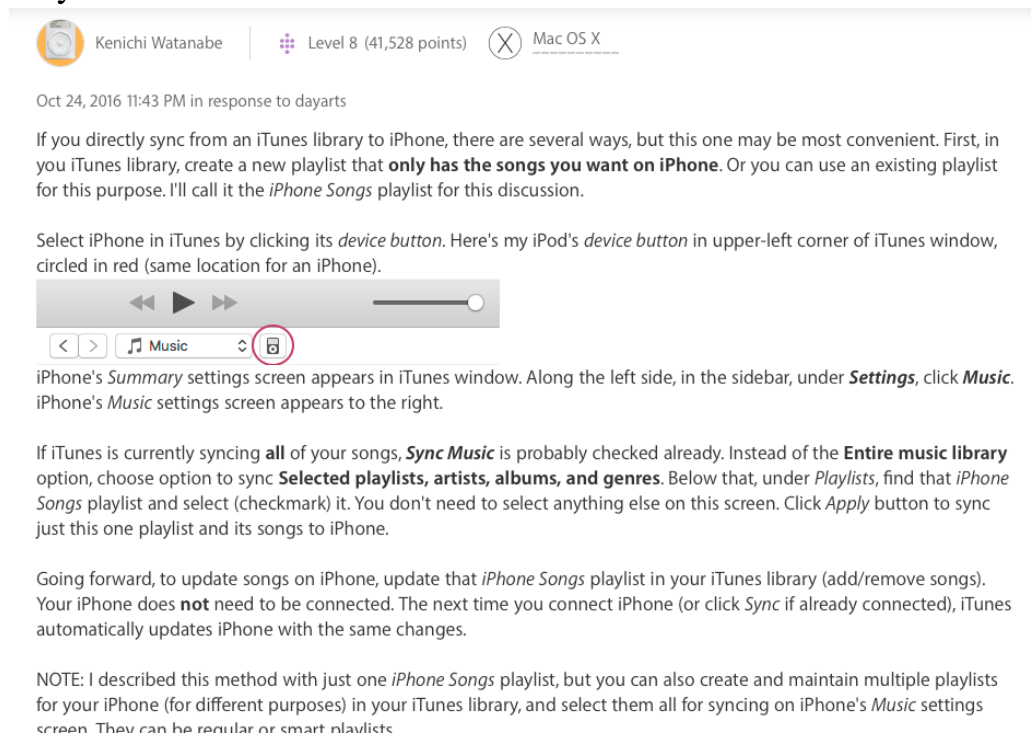
[https://discussions.apple.com/thread/4267230\\_](https://discussions.apple.com/thread/4267230_)

106. The Accused Instrumentalities further include a communication apparatus comprising circuitry configured to “control presentation of the program list to a user via user interface.” For example, iTunes includes a graphic user interface that will show the Playlists that are available both on the MacBook and on the external reproduction device:



107. The Accused Instrumentalities further include a communication apparatus comprising circuitry configured to accept edits to the program list via the

1 user interface. For example, using the iTunes interface, a user can edit or modify  
2 Playlists:



14 [https://discussions.apple.com/thread/7720242\\_](https://discussions.apple.com/thread/7720242_)

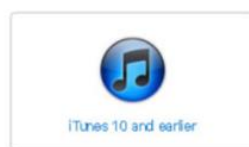
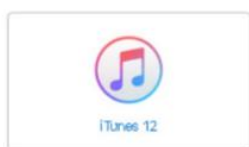
15 108. The Accused Instrumentalities further include circuitry configured to  
16 “determine whether an identifier received by the circuitry via the data interface is the  
17 predetermined identifier.” For example, when external reproduction apparatus (*e.g.*  
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iPhone, iPod, iPad) is connected to the MacBook, iTunes will display an identifier associated with that device along with Playlists associated with that device.

## Locate and view your connected device in iTunes

After you connect your iPhone, iPad, iPod, or Apple TV to your computer, you can view it and access its settings in different areas of iTunes depending on the version you're using.

Connect your iPhone, iPad, iPod, or Apple TV to your computer using the USB cable that came with it or via Wi-Fi. Then, choose your version of iTunes to find the location of your device's icon.



### iTunes 12

View your device by clicking on the device's icon in the upper-left corner of the iTunes window.



If you have multiple devices connected to your computer, click the device icon, then choose your device from the menu.



<https://support.apple.com/en-us/HT203060>.



Jim VanLeeuwen

Level 6 (18,874 points)



iPhone

Sep 4, 2012 1:12 PM in response to Keiloon

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I create several playlists and select which playlists I want on each device. Several playlists end up on all devices while others are only selected for one device. I keep one playlist strictly for "New Stuff" and I drag songs into or out of this playlist as my mood changes.

I don't ever check or uncheck items except holiday songs when the season passes.

Reply

Helpful



1 [https://discussions.apple.com/thread/4267230\\_](https://discussions.apple.com/thread/4267230_)

2 109. The Accused Instrumentalities further include circuitry configured to  
3 “control transfer of the musical content data to the predetermine external reproduction  
4 apparatus via the data interface based on the program list when the received identifier  
5 is the predetermined identifier without receiving information on selection of the  
6 musical content data from the predetermined external reproduction apparatus.” For  
7 example, iTunes will sync the playlist on the MacBook with the playlist on the iOS  
8 device, with regard to music content on the device, *e.g.*, music files on the iOS device,  
9 may be deleted.

10 5. By default, iTunes syncs your device whenever you connect it to your computer. If you want to have  
11 iTunes ask you before syncing, do one of the following:

- 12 ■ Require a prompt before syncing this device: Click Summary, then deselect “Open iTunes when this  
[device] is connected.”
- 13 ■ Require a prompt before syncing all devices: Choose **Edit > Preferences**, click Devices, and select  
14 “Prevent iPods, iPhones, and iPads from syncing automatically.”

15 6. When you’re ready to sync, click Apply.

16 Tip: To automatically sync a connected device at any time, choose **File > Devices > Sync** [device name].

17 **WARNING:** If you delete an automatically synced item from your iTunes library, the deleted item is removed  
18 from your device the next time you sync.

19 110. The Accused Instrumentalities further include circuitry configured to  
20 “compare the program list with a second list of musical content data stored in the  
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predetermined external reproduction apparatus.” For example, iTunes will compare playlists found in the MacBook with corresponding playlists found in the iOS devices.

[https://discussions.apple.com/thread/4267230\\_](https://discussions.apple.com/thread/4267230_)



jeremy\_v



Community Specialists

Oct 19, 2013 11:42 AM in response to louiepatterson

Hi louiepatterson,

Thanks for visiting Apple Support Communities.

If your entire iTunes library is syncing every time you connect your iPhone, you may want to try setting up syncing in iTunes again by following the steps in the appropriate article below. If you're syncing music, try un-checking and then re-checking the "Sync music" checkbox in iTunes.

**iTunes 11 for Mac: Set up syncing for iPod, iPhone, or iPad**

<http://support.apple.com/kb/PH12113>

**iTunes 11 for Windows: Set up syncing for iPod, iPhone, or iPad**

<http://support.apple.com/kb/PH12313>

Your entire library will sync again once more after this, but then only new songs should sync thereafter. If the issue persists, I'd try the troubleshooting steps in our iPhone assistant next:

**Frozen or unresponsive iPhone**

<http://www.apple.com/support/iphone/assistant/phone/>

<https://discussions.apple.com/thread/5452203?tstart=0>

111. The Accused Instrumentalities further include circuitry configured to “identify a piece of musical content data common to the program list and the second list based on the result of the comparison.” For example, iTunes will determine

whether the playlists found in the MacBook and the iOS device are the same, or whether there are additional files in the playlist of the MacBook.



Oct 24, 2016 11:43 PM in response to dayarts

If you directly sync from an iTunes library to iPhone, there are several ways, but this one may be most convenient. First, in your iTunes library, create a new playlist that **only has the songs you want on iPhone**. Or you can use an existing playlist for this purpose. I'll call it the *iPhone Songs* playlist for this discussion.

Select iPhone in iTunes by clicking its *device button*. Here's my iPod's *device button* in upper-left corner of iTunes window, circled in red (same location for an iPhone).



iPhone's *Summary* settings screen appears in iTunes window. Along the left side, in the sidebar, under **Settings**, click **Music**. iPhone's *Music* settings screen appears to the right.

If iTunes is currently syncing **all** of your songs, **Sync Music** is probably checked already. Instead of the **Entire music library** option, choose option to sync **Selected playlists, artists, albums, and genres**. Below that, under *Playlists*, find that *iPhone Songs* playlist and select (checkmark) it. You don't need to select anything else on this screen. Click *Apply* button to sync just this one playlist and its songs to iPhone.

Going forward, to update songs on iPhone, update that *iPhone Songs* playlist in your iTunes library (add/remove songs). Your iPhone does **not** need to be connected. The next time you connect iPhone (or click *Sync* if already connected), iTunes automatically updates iPhone with the same changes.

NOTE: I described this method with just one *iPhone Songs* playlist, but you can also create and maintain multiple playlists for your iPhone (for different purposes) in your iTunes library, and select them all for syncing on iPhone's *Music* settings screen. They can be regular or smart playlists.

<https://discussions.apple.com/thread/7720242>

<https://discussions.apple.com/thread/4267230>



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1           112. The Accused Instrumentalities further include circuitry configured to  
2 “control transfer to the predetermined external reproduction apparatus of the musical  
3 content data that is in the program list and is not in the second list of musical content  
4 data based on the result of the comparison such that transfer of the identified piece of  
5 musical content data common to the program list and the second list is omitted.” For  
6 example, after comparing playlists stored in the MacBook with the playlists stored in  
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the iOS devices, iTunes will copy to the iOS devices only the music files found in the MacBook that are not present in the iOS devices.



Oct 24, 2016 11:43 PM in response to dayarts

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<https://discussions.apple.com/thread/5452203?tstart=0>

1           113.     Apple also infringes other claims of the '614 Patent, directly and  
2 through inducing infringement and contributory infringement.

3           114.     On information and belief, use of the Accused Instrumentalities in  
4 their ordinary and customary fashion results in infringement of the methods claimed by  
5 the ' 614 Patent.

6           115.     By making, using, offering for sale, selling and/or importing into the  
7 United States the Accused Instrumentalities, and touting the benefits of using the  
8 Accused Instrumentalities' data communication features, Apple has injured Data Scape  
9 and is liable to Data Scape for infringement of the '614 Patent pursuant to 35 U.S.C. §  
10 271.

11           116.     As a result of Apple's infringement of the '614 Patent, Plaintiff Data  
12 Scape is entitled to monetary damages in an amount adequate to compensate for Apple's  
13 infringement, but in no event less than a reasonable royalty for the use.

14                           **PRAYER FOR RELIEF**

15           WHEREFORE, Plaintiff Data Scape respectfully requests that this Court enter:

16           a.     A judgment in favor of Plaintiff that Apple has infringed, either literally  
17 and/or under the doctrine of equivalents, the '929 Patent, the '751 Patent, the '469  
18 Patent, the '537 Patent, the '112 Patent, and the '614 Patent.

19           b.     A permanent injunction prohibiting Apple from further acts of  
20 infringement of the '929 Patent, the '751 Patent, the '469 Patent, the '537 Patent,  
21 the '112 Patent, and the '614 Patent.

22           c.     A judgment and order requiring Apple to pay Plaintiff its damages, costs,  
23 expenses, and prejudgment and post-judgment interest for its infringement of the '929  
24 Patent, the '751 Patent, the '469 Patent, the '537 Patent, the '112 Patent, and the '614  
25 Patent; and

26           d.     A judgment and order requiring Apple to provide an accounting and to pay  
27 supplemental damages to Data Scape, including without limitation, prejudgment and  
28 post-judgment interest;

1 e. A judgment and order finding that this is an exceptional case within the  
2 meaning of 35 U.S.C. § 285 and awarding Data Scape its reasonable attorneys' fees  
3 against Apple; and

4 f. Any and all other relief as the Court may deem appropriate and just under  
5 the circumstances.

6 **DEMAND FOR JURY TRIAL**

7 Plaintiff, under Rule 38 of the Federal Rules of Civil Procedure, requests a trial  
8 by jury of any issues so triable by right.

9  
10 Respectfully Submitted,

11 Dated: December 26, 2018

12 /s/ Reza Mirzaie  
13 RUSS AUGUST & KABAT  
14 Marc A. Fenster, SBN 181067  
15 Email: mfenster@raklaw.com  
16 Reza Mirzaie (CA SBN 246953)  
17 Email: rmirzaie@raklaw.com  
18 Brian D. Ledahl (CA SBN 186579)  
19 Email: bledahl@raklaw.com  
20 Paul Kroeger (CA SBN 229074)  
21 Email: pkroeger@raklaw.com  
22 C. Jay Chung (CA SBN 252794)  
23 Email: jchung@raklaw.com  
24 Philip X. Wang (CA SBN 262239)  
25 Email: pwang@raklaw.com

26 *Attorneys for Plaintiff Data Scape Limited*  
27  
28